

primary means of smuggling large amounts of narcotics into the United States.

In 1993, the then-District Director of the Customs Service may have prevented investigators from the Inspector-General's office from conducting a surprise inspection of the "line release" program at the southwest border, an investigation aimed at determining whether unauthorized trucks, potentially carrying drugs, were allowed to cross the border without inspection.

The news program "Dateline: NBC" recently filmed more than 35 trucks in just four hours of surveillance belonging to companies on Customs' "watch list" for drug smuggling rolling right through Customs, without being inspected.

It has been reported that the organization of recently-arrested Mexican drug kingpin Juan Garcia Abrego has paid millions of dollars to U.S. and Mexican law enforcement officers. It seems inevitable that a substantial portion of that money has gone to Customs officials, as they are responsible for intercepting drugs at the ports of entry along the Mexican border.

As a Customs supervisor told the Washington Post, "Tons and tons of cocaine are crossing the border, and we're getting very little of it."

The current pattern of drug flow and drug enforcement into and within this country must be changed. To better understand how federal law enforcement approaches these problems and the efficacy of federal programs to curtail drugs, I am officially asking the General Accounting Office to investigate drug enforcement by the Customs Service.

To target your resources, I ask that you focus initially on evaluating the Customs Service's drug enforcement operations at Otay Mesa. After you have evaluated Otay Mesa, I would like to work with you to broaden this inquiry to the rest of the Southwest border. Specifically, I would appreciate your addressing the following questions regarding Otay mesa:

Does the Commissioner of Customs provide clear direction to Customs personnel regarding Customs' drug enforcement mission?

How have Customs' drug enforcement efforts been, or how will they be, affected by their programs to facilitate trade and passenger movement, including but not limited to: line release; re-engineering primary passenger processing; and expanded access by Mexican trucks to the U.S. pursuant to the North American Free Trade Agreement (NAFTA)?

How have the percentage rates of inspections of trucks, cars, and ships by Customs changed over the last three years?

What increases in border crossings by trucks, cars and ships does Customs expect over the next several years? Does Customs have a reasonable basis for the projections it has made? If Customs has not made such projections, why haven't they, and was any consideration given to making them?

Has Customs made adequate plans to meet any expected increases in such border crossings?

What is the basis for Customs' allocation of personnel resources for carrying out their drug enforcement responsibilities? Is this basis reasonable? Have Customs' actual allocations of personnel matched their projections?

What are Customs' processes for training their personnel in their drug enforcement responsibilities?

Why are trucks on Customs' "watch list" passing through without inspection? Is it human error, corruption, systematic flaws, or something else, and in any case what is necessary to fix this? Do Customs personnel actually implement, on an operational level, what Customs' law enforcement plans describe that they do?

Is the Los Angeles Times report that there were no cocaine seizures from trucks at three or four of the busiest ports of entry on the Southwest border in 1994 and 1995 accurate, and, if so, what accounts for this?

Is Customs following up and adequately using the intelligence which they gather?

How vulnerable are Customs' communication systems to penetration by drug smugglers?

What steps are Customs taking to address the problem of "spotters" (individuals who linger around ports of entry, radioing inspection patterns to smugglers on the other side of the border)? How are these steps working?

How are the Cargo search x-ray machines performing?

It is imperative that we get to the bottom of the problems at Customs, and I appreciate your assistance in this regard.

Sincerely,

DIANNE FEINSTEIN,  
U.S. Senator.

Mrs. FEINSTEIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair. As I understand it, we are in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. I ask unanimous consent I be allowed to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the submission of (S. Res. 276) are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2237, which the clerk will report.

A bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Daschle amendment No. 3581, to provide emergency assistance to agricultural producers.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized to offer an amendment relating to mining with the time until 12:30 p.m. to be equally divided in the usual form.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Madam President, my colleagues will be greatly relieved with my departure at the end of this year because they won't have to listen to this debate anymore. They may have to listen to it again, but not from me.

This amendment arises from a situation which really began last year, Madam President. In order to set the stage for it, I direct my colleagues' attention to this chart here. But before doing so, let me just say that we had what I thought was a solemn agreement last year on this same issue. I won't say it was a handshake contract, but last year the Interior appropriations bill contained a provision that was added in the committee markup, which said the Secretary of the Interior may not promulgate new regulations for the mining of hard rock minerals on Federal lands until every Governor of 11 Western States had individually agreed to it.

In 1976 we passed FLPMA, an acronym for Federal Lands Policy Management Act, it was my second year in the Senate when we passed that, but I was very active in the negotiations and passage of that bill. It was a comprehensive bill that determined how all Bureau of Land Management lands would be handled. In it we said that the Secretary of the Interior is charged with the responsibility of ensuring that on Bureau lands, no unnecessary and undue degradation would occur.

Now, as my friend, the Governor of Florida, Lawton Chiles, who used to be our colleague, used to say on this floor, "The mother tongue is English." You cannot say it any better in English than to say the Secretary is hereby charged with the responsibility for making certain that there is no undue, unnecessary degradation of Federal lands.

We have about 450 million acres of Federal lands, and an awful lot of it is eligible to be mined for various hardrock minerals, notably gold, platinum, silver, zinc, lead, you name it. So in 1980, the Secretary issued regulations to comply with FLPMA and in 1981 they were finalized and went into effect. Everybody applauded and said it is wonderful. Now we have regulations in place that will govern mining companies.

What brought these regulations about? It was the first time we had ever tried to regulate mining on Federal lands. Why did we do it? Because at that very moment, there were 557,000 abandoned mines in this country. Who do you think had been left with the pleasure of cleaning up those 557,000 abandoned mines? You guessed it—"Uncle Sucker." The cleanup costs, according to the Mineral Policy Center,

for those 557,000 mine sites is calculated to be between \$32.7 billion and \$71.5 billion. Within the 557,000 abandoned mines, 59 of those are now Superfund sites. We don't put things on the Superfund list just for fun. That is a big-time environmental disaster. In addition to 59 Superfund sites, we have 12,000 miles of rivers that have been polluted by mining waste, and we have 2,000 national park sites in need of reclamation.

Now, think of that. We have 2,000 mine sites within the national parks that have to be reclaimed. And because it took the Nation too long to wake up to the environmental damage that was being done by mining in this country, this damage had already occurred when we passed FLPMA in 1976 saying the Secretary will promulgate regulations to make sure that not only this comes to an end, but that it never happens again. So we gave the Secretary regulatory authority.

In 1981, those rules went into effect. Let me make one point, and I will make it more than once in this debate. The mining of gold in this country is done nowadays primarily with the use of cyanide. Cyanide is a lethal chemical.

Now, Madam President, in 1991, George Bush was President, a conservative Republican administration. Because this new technique of mining with cyanide had gone into effect and there were several mines which had caused cyanide to leak into the streams and rivers around it and into the underground water supply, the environmentalists were squealing like pigs under a gate.

So, in 1991, the Bush administration, through Secretary Lujan, came out with a study to develop new regulations to take care of these new environmental problems. But because in 1993 we were trying to reform the whole mining law, everybody said, "Well, we have got this whole law we are going to reform," so the Interior Department decided to suspend the work on revising the regulations. Unfortunately, in 1994, the Western Senators were able to kill the mining law reform legislation that was pending in Congress.

As a result, last year, Bruce Babbitt, the all-time favorite whipping boy of the West, said he, as Secretary of the Interior, was going to honor FLPMA as it was written, and that is to make sure there is no unnecessary and undue degradation of the public lands. So he reinitiated the process begun in the Bush Administration to revise the mining regulations in order to attempt to prevent environmental disasters, such as the leak of cyanide into the rivers, streams and underground water supplies. So Senator REID of Nevada, in the appropriations subcommittee last year added a provision which would have prohibited the Secretary from promulgating these rules unless all of the Western Governors consented.

The provision, as it was drafted, was patently clear. It simply meant that

each Western Governor had veto power over the revised regulations. That was, obviously, a little too much, even for some of my friends in the West, to stomach.

So Senator REID and I worked together in good faith and mutual friendship and respect on both sides. We amended that language to say that the Secretary will consult with all the Governors of the West. After he has done so, he will certify to the Congress that he has consulted with all of the Western Governors. He maintained that he had already done that, but they disagreed with that. So we required consultation in the amendment. That is the path we adopted last year.

We also put a time schedule in there so that the Secretary could continue to work on the regulations, and he could promulgate the regulations after November 15. The deal was done. It will be done after the election. Nobody will be hurt politically. The only thing wrong with that is this year—1998—when the bill comes out of the appropriations subcommittee, the deal was reneged upon.

What is the new requirement? The new provision states that the Secretary could not promulgate these regulations until the National Academy of Sciences has studied it for 27 months. Next year, it will be the National Institutes of Health. God knows, the next year it will probably be the National Organization for Women—anything to keep these regulations from going into effect.

Make no mistake about what we are talking about. Everybody understands it. Under the provision that is in the bill this year, which I am proposing with this amendment to strike, guess what the timetable is. It will now take 27 months for the National Academy of Sciences to study it and to report it and the Secretary to consider it and do whatever he is going to do—27 more months, over 2 years, of continuing to sock the taxpayers of America with the foibles of the mining industry. I will come back to some of those foibles in just a moment and tell the American taxpayers what they are paying for right now.

Why 27 months? You know, if you are a U.S. Senator, and if you paid any attention at all—you don't have to have a picture drawn for you—27 months takes us past the year 2000. So we go past the election in the year 2000, and all of my friends who are going to come in here and vote against my proposal today hopefully will elect a President of a different persuasion who will bring James Watt back as our Secretary of the Interior.

That is the politics of the issue. It is not pleasant to talk about things like that on the floor of the Senate. But there isn't a single Senator here today who is going to vote who doesn't understand precisely what it is about. Every Senator who votes against my amendment is going to know in spades that he is voting to continue to allow min-

ing companies to mine on Federal lands with virtually no regulations to guide them, being able to put up an insufficient bond, and when they take bankruptcy and go south again, will leave the taxpayers of America to pick up the tab. I don't know how I can put it any plainer than that.

Madam President, let me be just a little bit more dramatic, a little bit more graphic about why the anti-environmental rider in this bill should be taken out.

I want you to bear in mind, last year we postponed it until November 15. If my amendment is not adopted, that takes us down well past November. It takes us into about January 2001; and more and more environmental degradation, more rivers and streams polluted, more mining companies taking bankruptcy and heading south with an insufficient bond.

That is for what you are going to be voting. For all of those who are running for reelection this year, when you go home and your opponent says, "Why did you vote against putting some regulations in to regulate the use of cyanide to keep it from going into our underground aquifers and our rivers and streams; why did you vote to continue that," I would like to hear your answer.

But just to give the taxpayers of America some information, if not my colleagues who are not here this morning, in 1992, Galactic Resources, the owner of the Summitville Mine in Colorado, took bankruptcy. They left cyanide, acid, and metal runoff going into the underground aquifers and the Alamosa River. Do you know what has happened since then? The taxpayers of this country are paying over \$1 million a year to try to contain cyanide and acid runoff from that mine, not Galactic Resources.

The Summitville mine took bankruptcy and went south. That was in 1992. The reason they were able to create an environmental disaster in the State of Colorado is because Colorado's bonding regulations were insufficient. Federal regulations are similarly flawed. We have constantly postponed new regulations, and the regulations we were operating with were promulgated in 1981, and in 1981 we didn't even know about cyanide poison being used in the mining process. Secretary Babbitt is trying his best to promulgate rules and regulations to make sure there will be no more Summitville mines.

So when people come walking onto the Senate floor to vote on this amendment, remember, you get to go home and tell your constituents that they are picking up a million-dollar tab a year because we do not have regulations to control gold mining in this country.

Now we have a brand new one in Montana. Pegasus Gold Company, which has filed for bankruptcy recently closed the Zortman-Landusky mine on BLM and private land in Montana.

They have filed for bankruptcy. Cyanide spills all over the place. And who do you think is going to get to pick up the shortage on their bond? The taxpayers of America.

And here is one, to be totally fair about it, that is not on Federal land, the Gilt Edge mine in South Dakota, another 1998 matter. They had cyanide leaks in the ground water, acid mine drainage, and they are in financial difficulty. And if they take bankruptcy, it is estimated that their bond will pay about 50 percent of the cost of cleaning up that mess.

The regulations that we are talking about trying to get promulgated to stop this outrage are not just to stop the use of cyanide. We are not trying to stop the use of cyanide. We are trying to make them use it in a way that we know the plastic cover on the ground is strong enough to not break and leak. But the second thing we are talking about is making them put up a sufficient bond; in case they do have a spillage, in case they do go broke, the taxpayers will not be left with it.

The reason I use Gilt Edge is not because they are mining on Federal lands but because they are proposing to extend their operations onto National Forest land.

So since 1976 we have been trying to stop mining companies from mining in an improper way, leaving the taxpayers with the tab. We have been trying a lot of other things without success. But if I were speaking on national television to 268 million people in America and all the adults were listening, how many votes do you think I would get? About 90 percent of the American people. But, unhappily, I am not speaking to 268 million Americans. Lord, how I wish I were; I feel supremely confident as to how the American people would feel about this.

So, Madam President, let me go back and make one other point and then I will allow some of my adversaries to have their say.

Let me describe for you how gold is mined today under modern methods. First of all, you have to dig up the earth. You dig up huge, cavernous amounts of soil that supposedly has gold in it. You bring the soil into the mine site, where huge plastic covers have been laid out on the ground, and you dump this soil on this plastic cover that covers the ground and presumably will hold any fluid or liquids that you put through this dirt. Huge pits. You ought to see them. They look like abandoned strip mining sites. But this modern method that I talked about is new, brand new, and is causing all the damage that we need regulations to control.

Then they use a drip process along the top of this big mound of dirt where this cyanide drips through, and it seeps down through this huge pile of dirt. The gold is attracted to this cyanide solution. Then it pours out on the side into sort of a gutter, where the gold is strained out of it and the cyanide is re-

cycled and once again put through this drip process. It is like a drip irrigation system.

Now, the first thing you have to do is understand how lethal cyanide is, and the second thing you have to understand is that the reason some of these spills occur is that the plastic liners leak. Think about how ominous it is. How would you like to live in the vicinity where you knew your underground water supply had cyanide leaking into it?

Mr. President, I have nothing against the National Academy of Sciences, it is a fine organization. But we don't need another Academy study. The National Academy of Sciences has already examined the matter. In 1978, when we enacted SMCRA, governing the regulation of coal mining, a provision was included in the bill to require the National Academy of Sciences to study the regulatory requirements needed to address the environmental impact of hard rock mining. That study was completed in 1979. That same study found a need for a Federal regulatory framework.

In 1996, the Environmental Law Institute studied hard rock mining programs and said the current regulations were insufficient. That was in 1996. In 1992, the House Committee on Interior and Insular Affairs prepared a study that found significant gaps in environmental regulation of mining. The GAO has studied this issue to death and has found flaws in the administration of our mining laws.

The question then becomes, When you consider all the studies that have been done and the damage that has occurred while we have been doing studies, why in the name of all that is good and holy do we need another study? I repeat, do we need another study to postpone this until after the year 2000, when a new Secretary, presumably, will take office who does not even believe in studies, let alone environmental regulation? This is all a ploy. Everybody in the Senate knows that. When they vote today, they are going to think, "Now, what kind of a 30-second spot can somebody make out of me voting to continue mining gold with cyanide when the regulations were written before cyanide was even used in gold mining?" And they think about it and they put it through this little filter, this little political filter in their ear, and say, "Well, on the other side it says the National Academy of Sciences. Who can object to the National Academy of Sciences studying something? It is a very prestigious organization." And they can probably try to convince their constituents that they are trying to protect them by having the National Academy of Sciences do a study when, in fact, the National Academy of Sciences could do what they need to do on their own in 2 months. But the list I just gave you shows this has been studied and studied and postponed and postponed, until now we have these environmental dis-

asters on our hands that cost the taxpayers "gazillions." It is going to cost them a fortune.

And don't anybody make any mistake in your judgment about how this is going to play out. As I said, we had a solemn agreement last year. Everybody understood exactly what we were agreeing to. And, incidentally, we said the Secretary had to consult with all the Western Governors. He has done that. Governor Miller, I think, is president of the Western Governors' Association; he has notified Members of Congress that they have been consulted with. Everything we agreed to last year has taken place, and we come back here today and industry says, "No, we have to have one more study."

I have said most of what I want to say. I just ask, what is the objection, even of the Western Senators? What is their objection to the Interior Department, that they want to prohibit any update of the regulations? Nobody has cited a single objection to the drafts of the Secretary of Interior that were going to go into effect, that were going to be promulgated November 15 of this year. Do they object to mining companies having to file a plan before they start mining? Do they object to requiring mining companies to post a bond sufficient to take care of the devastation that they may cause? Do they object to a regulation that says they must reclaim the land when they finish mining it? What is the objection? Is it that they have to minimize the adverse impact on the environment, if at all economically and technically possible? It does not say they have to. It says they have to minimize adverse impacts if at all technically and economically possible. Who could object to that?

Madam President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. BUMPERS. Madam President, the amendment is up, isn't it?

The PRESIDING OFFICER. The Senator has not called up his amendment.

AMENDMENT NO. 3591

(Purpose: To remove an anti-environmental rider)

Mr. BUMPERS. I now call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3591.

Strike line 19 on page 55 through line 6 on page 58.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, let me wish you a good morning as we proceed with the Interior appropriations process. I would like my colleagues to note that I stand in strong opposition to Senator BUMPERS' amendment to strike the National Academy of Science study. What we have here is an organization of scientists that are objective. They have a reputation of making decisions based on sound science and not rhetoric. We

have a good deal of rhetoric here in this body.

The language that Senator BUMPERS would propose to strike is as simple and straightforward as any legislative language can be. In spite of all words to the contrary, it does nothing more than direct the National Academy of Sciences to review existing State and Federal environmental regulations dealing with the hard rock mining industry to determine the adequacy of these laws and those regulations to prevent unnecessary and undue degradation, and how to better coordinate Federal and State regulatory programs to ensure environmental protection. It is short, it is sweet, and it is to the point.

The Senator from Arkansas has a long history in opposition to mining. It is interesting to note that the State of Arkansas has a relatively small amount of mining activity, most of which is either on private or patented land, unlike the western part of the United States, Nevada, California, Idaho, my State of Alaska. I do not have a constituency in the poultry industry. I could, perhaps, claim "fowl," relative to the constant objection from my good friend from Arkansas who clearly has no constituency in the mining industry. But the point is, the mining industry in the United States has been able to survive in an international marketplace, unlike the poultry industry which has a domestic market and domestic concerns. My point is that the economy of a good portion of the Western United States is dependent on the mining industry.

It needs fixing, but it is not broke. It is rather interesting to note that the reason we are here today, to a large degree, is that we have yet to pass a mining law reform package in the U.S. Senate. It is fair to ask why. Let me tell you why, Madam President.

The Senator from Arkansas specifically asked the Senator from Alaska, who chairs the Energy and Natural Resources Committee, not to mark up the mining legislation because he was working diligently with me and others to try to put together a compromise that he could support.

But the point is, he asked and I put off Senator CRAIG's and my mining bill while he negotiated with industry on a comprehensive reform package. I hope that effort is not over. But we would not be here today or have to go through this debate if our reform bill had come to this floor for a vote, which I hope within the timeframe remaining it still might. It was an effort to provide a balanced package that contained a host of surface management protections along with royalty, but it was because he asked us to put off the mining law package that we are here today debating only a portion of the reforms envisioned in my mining bill.

Let me remind you, Madam President, the reform of mining law is complex. There are different minerals. It is not like the coal industry where you

are dealing with one particular mine product. You are dealing with gold, you are dealing with silver, you are dealing with copper, all of which have different complexities in the mining and, more so, the refining process, different costs, and the realization that you may be mining rich gold in one mine and much lower grade gold in another, yet the costs are significant. When you try to have uniformity in application of mining law, it becomes very complex and often an impossible task.

What we are proposing in our mining bill, as the Senator from Arkansas knows, is a pattern similar to what is working in the State of Nevada. My colleagues from Nevada will be addressing that. But that is basically the application of a net royalty.

Madam President, hard as it is to believe that we agree on anything, I do agree with Senator BUMPERS that it is an absolute shame that the Congress has been forced to intercede in what should be the Department of Interior's routine rulemaking process. This has been addressed by my friend from Arkansas, but if we look back historically, we have been able to count on administration agencies to do an evaluation of needs that is objective and straightforward before launching off and writing new regulations. Sadly, under the current Office of the Secretary of the Interior, this has not been the case. Let me tell you why.

The entire rulemaking effort for mining is rooted in a Secretarial directive to the Bureau of Land Management in which he concludes that since the Congress has not acted on mining reform, it is his intention to do so through the regulatory process. So here is the Secretary of the Interior circumventing the will of Congress.

Why don't we have a bill here? We accommodated the Senator from Arkansas in withholding on the markup so we could negotiate. Yet, he wants to move in and strike the involvement on a portion—a portion, Madam President—of the reform from having the independent study done by the National Academy of Sciences.

I am sure my colleagues understand what we have going on here. As we look at giving the Secretary of the Interior the right to initiate rulemaking, circumventing the role of Congress, I think on most issues, my friend will agree with me, there is no justification for it. There is a mining bill before this Congress. We would like to have it passed, but we are waiting for a resolve by the Senator from Arkansas to negotiate something that is satisfactory to him, as well as us. We have a bill before this body, as I promised many of my colleagues after the last vote on this issue that we would.

Let's go back to the proposed rulemaking, which the Senator from Arkansas has referred to, at the Department of Interior. It is interesting to note that no assessment of existing Federal laws and regulations, no assessment of existing State laws and

regulations—simply put, the result so far from the Department of Interior is, no determination of need whatsoever has come out of this process.

Governor Miller of Nevada perhaps put it best when he said the current Department of Interior mining regulation effort is a solution looking for a problem, and my good friend from Arkansas is here with his continuation of his objection to this particular industry.

During the last appropriations cycle, we attempted to temper the Secretary's driving impulse to regulate with an amendment which would have forced—forced—the Department of Interior to at least coordinate its efforts with the Governors of the affected States. My friend from Arkansas said they met that obligation. The only difference is, the Governors of the affected States didn't agree with the Department of Interior.

It was our hope through this coordinated effort the new regulations would not drop a monkey wrench into the existing State-Federal regulatory network. Anyone, Madam President, with even a rudimentary understanding of how the mining industry is regulated understands that the State governments play by far the largest role in oversight and enforcement of environmental regulations on the industry.

What is wrong with that? The Senator from Arkansas seems to put little credence in the oversight capability of the States. What is wrong with the States, the most concerned group with regard to their responsibility concerning environmental oversight on the mining industry? Is it better to have a faceless bureaucrat in Washington, DC, dictating what goes on in Nevada, California, Idaho, dictating to the people of Idaho, the people of Alaska who live with the mining industry, who take pride in their State, who take pride in the reclamation process to meet their obligations?

The reason for this is simple. Over time, the States have been delegated Federal responsibilities for water quality, air quality, solid waste management, and mine reclamation. These laws are the 800-pound gorillas when it comes to mining.

Over time, these Federal programs have been fully integrated into State environmental protection laws. These interwoven laws form a complete and balanced net of environmental regulations that cover almost every aspect of mining activity. And if they don't cover some, they will, without so much as a thought given to the impact their rulemaking efforts would have upon existing Federal and State programs that the Department of Interior took upon itself to launch into a major rewrite effort.

What is their agenda? Is it to run the domestic mining industry offshore? We have learned from what happened in Mexico and Canada when the industry basically ceased to exist at its previous level because of restrictions. And, remember, unlike the poultry industry,

which is a domestic industry and with which my colleague from Arkansas is familiar, the mining industry has to operate internationally. It either competes on an international basis or it doesn't. It is much more complex.

Last year, at the request of Governor Miller of Nevada, Senator REID put on an amendment to the Interior appropriations bill which would have made it mandatory that the Interior Department at least coordinate efforts with the States—at least coordinate them. He did this only after the Governor made it clear that coordination was not taking place.

So I take issue with the general statement of my friend from Arkansas. We were prepared last year to make Interior Department coordination with the States mandatory. Senator BUMPERS, however, saw fit to intercede on behalf of the Department of Interior with an amendment which removed mandatory coordination with States and put in place a requirement that the Secretary certify to the Congress that the coordination had occurred, and the Secretary has done that. But the States didn't agree. They didn't agree, Madam President.

While I have had doubts about this, I supported the approach. I was hopeful that the amendment would be received in good faith by the Interior Department and that they would make sure that the States interested were factored into their mining regulation effort. What followed was the most, I think, disrespectful, in-your-face response I have ever seen from the Department of Interior and any other agency of the Federal Government.

In the Interior appropriations bill, when it was signed by the President November 11, 1997, a letter certifying that coordination with the Governors had taken place was signed on Monday, November 14. Well, they didn't agree. The cavalier attitude of the Interior Department is the sole reason we are back here again this year. At this time, I urge my colleagues not to be taken in by the rhetoric. Fool me once, shame on you; fool me twice, why, shame on me.

It is obvious to me that we have seen examples that the Department of Interior is simply unwilling and incapable of following good government practice when it comes to regulating the industry. They have so completely lost their objectivity and become so biased against this industry that they appear completely incapable of making objective and fair decisions.

It is just not the mining industry. Grazing on public land falls into the same category; oil and gas exploration, same category; access to public land; the administration talks about global warming and that gas is the answer—where are you going to get the gas if they won't allow exploration on public lands; timbering, Forest Service lands, and, of course, mining on western public land.

Our amendment does not make a finding one way or the other regarding

the ultimate needs for new regulations. It does direct an "unbiased" assessment of the need for new regulations be completed before—and that is the whole purpose of the National Academy of Sciences—before the Interior Department can finalize mining regulations.

With diminished budgets, increased need and the growing complexity of State, Federal and environmental protection laws, why on Earth would any responsible government manager propose a large-scale rulemaking effort without first establishing a solid and specific need?

Since it has become obvious that the Interior Department is either unwilling or incapable of accomplishing this assessment, then it is imperative that the Congress now step in and assume the responsibility. They leave us with no other choice. Once the National Academy of Sciences completes its assessment, the Interior Department will be free to proceed with its regulatory efforts. At that point, they will have the information they need to rewrite the regulations in a way that fixes problems, if there are any, but not create problems.

The citizens of this Nation are entitled to a Department of Interior that determines need before it acts, that doesn't waste money that it sorely needs in other places, a department that doesn't unnecessarily disrupt a system of State and Federal regulations laboriously constructed over decades to complement and enhance environmental protection at the lowest possible cost.

The time has come to draw a line in the sand with this administration. It is simply not in their purview to regulate an industry out of existence without first establishing a need for that regulation. It cannot simply dismiss input from the affected States, which they have done. These States truly are our partners, not our enemies.

I have communications from the Governors of Nevada, Arizona, Idaho, Utah, Wyoming, and New Mexico, asking Congress to protect their interests, asking us to support retention of the National Academy of Sciences' objective study. Like us, they simply want the Interior Department to demonstrate a need for regulation before they step up on the effort.

By voting to table Senator BUMPERS' amendment we will certainly set in motion this study. It is my understanding it will be Senator BUMPERS' motion to strike.

Now, I am sure all of you will hear a great deal of verbiage about this issue, but when the dust settles and the smoke has blown away, you only have to ask yourself one question: Do we want to start a massive, potentially disruptive rulemaking effort before the need for the effort has been established?

There you have it—short, simple and to the point. I urge my colleagues to join me in a vote against Senator

BUMPERS' amendment. In so doing, we will be sending a clear message to the administration that good government is still important government, and the government that is best is the government that is close to the people. The State's voice should be heard. The States play a critical role in environmental protection. Their partnership and input is important. Let's have a fair, objective, qualified, scientific group, the National Academy of Sciences, make the call.

How much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 57 minutes; the Senator from Arkansas has 38 minutes.

Mr. MURKOWSKI. I yield up to 15 minutes to my friend from the State of Nevada.

Mr. REID. Madam President, this Senator from Nevada would like 20 minutes, and the junior Senator from Nevada would like 10 minutes.

Mr. MURKOWSKI. That is quite satisfactory.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, let's put this in proper perspective. Gold prices are at the lowest level in 19 years as of just last week. The mining industry has seen layoffs. Some of the companies have filed bankruptcy. This seems like a very inopportune time to come in and attack the mining industry. It is an industry which creates the best blue-collar jobs in America. I repeat, the best blue-collar jobs in America come from mining.

Here is the Senator from Arkansas, again, as he does every year, attacking the mining industry. This year the attack is at a very inopportune time. I repeat, the mining industry is going through some very difficult times.

In spite of paying the highest wages in blue-collar industry in America, the mining industry in America is the best in the world. The costs of production are extremely low. They are lower than Australia or any other country. We are competitive. But it has been very difficult.

Now, having said that, we also have to recognize that the gold industry is a very important industry for the United States. We are a net exporter of gold. It is one of the few things that we do that creates a favorable balance of trade in America.

With that as the setting for this amendment, let me say this amendment is attempting to strike from the bill language that is very, very reasonable. The Secretary of Interior is attempting to do by regulation what he can't do by legislation. What right does he have to overrule what the will of the Congress is? He has no right to do that. He has tried very hard. I am not making this up. He said in 1994 when his legislative efforts failed,

We will explore the full range of regulatory authority we now possess.

Since that comment, with a vengeance, the Secretary has gotten busy on

the regulatory side while making no attempt to work with Congress to reform the mining law bill. If we had had support from the Secretary's office in the past 2 months, we may be here today talking about mining law reform rather than hacking away at this Interior bill.

The Governors, at their meeting in Medora, ND, in June of 1997, pointed out in a resolution that the current State programs, as far as they are concerned, are working well, and attempts to duplicate them should be avoided.

What we have here is, again, something we like to talk about, but not do much about, and that is talk about States rights. States rights are very important to our framework of government. We have here a number of States which are saying we are willing to work within the Federal concept and all the laws that we pass in Washington that affect mining, but let us regulate from the State level. This amendment is attempting to take that away.

The Secretary of Interior has proceeded undaunted with his rulemaking in spite of how the Governors feel. This led to language being included in last year's Interior bill that precluded the Secretary from expending funds to rewrite 309. As the chairman of the full committee said a few minutes ago, showing absolute disrespect for Congress, the Secretary, 3 days after the President signed the Interior bill—we stuck language in the bill saying he had to confer with Governors—3 days after signing that bill, he sent a letter saying that they had conferred and complied with the requirement to consult with the Governors. Let's be realistic—within 3 days? This was, as chairman of the full committee said, an in-your-face remark to Congress from the Secretary of Interior's office saying, "We don't have to consult with you."

After numerous Governors, both individually and collectively, pleaded with the Department not to forge ahead on rulemaking without bringing them in the process, he continued. Only after months of letterwriting and handwringing did the Secretary send his task force out with a draft proposal. After the draft proposal was received, the Governor said, "We have seen it; we have looked at it. What are you trying to do?" It doesn't make any sense. The chairman of the full committee, the junior Senator from Alaska, held a hearing. At the hearing, the Governors testified, "Where is the demonstrated need to rewrite the 309 service management regulations?" There was no response as to why it was necessary.

Madam President, understand that this isn't something that we have dreamed up. This isn't some anti-environmental piece of the Interior bill. In fact, what this is, is a clear demonstration that the mining industry, the Governors from the States where mining is important, and the rest of the country where mining is important, are simply

saying what they want to do is have an independent, unbiased, competent body take a look at the present regulations to see if they are OK. We have assigned the National Academy of Sciences, one of the foremost scientific bodies in the world, to take a look at this. That doesn't sound unreasonable to any reasonable person.

This language is not an anti-environmental rider that would somehow gut existing regulations. We don't touch existing regulations. We are simply saying that it is within the purview and jurisdiction of Congress because it is something that we feel will add to a good resolution of this issue.

The Secretary has proceeded in a cavalier fashion for an outcome that would seriously jeopardize the State's role as coregulators with the Federal Government in mining. There is talk about the atrocities toward the environment in mining. I come from a family where my father was a hard rock miner. I have worked in the mines. I went with my dad when I was a little boy into the mines. I have to acknowledge that many years ago there were a lot of environmental degradations as a result of mining. The tailings from the mill just ran out wherever, and the dumps were just not located in any specific place.

In short, the legacy that went on before bears no resemblance to the current practices in the mining industry, nor the States' ability to regulate mining. They do a good job now. In the past two, two and a half decades, tremendous work has been done. I am really tired of hearing all the time that the 1872 mining law needs to be revamped. It has been over 100 years and we have done nothing. That is a bunch of hogwash.

(Mr. ASHCROFT assumed the Chair.)

Mr. REID. Mr. President, here are the pieces of legislation, the laws, that have been passed that now govern mining: Migratory Bird Treaty Act, Fish and Wildlife Coordination Act, Historic Buildings and Sites, Fish and Wildlife, National Environmental Policy Act, Clean Air Amendments, Federal Water Pollution Control, Endangered Species Act, Safe Drinking Water Act, Toxic Substance Control Act, Resource Conservation, National Forest Management, Clean Air Act, Federal Mine Safety and Health Act, Clean Water Act, Uranium Mill Tailings Radiation Act, Archaeological and Historical Preservation, Comprehensive Environmental Compensation Liability Act, Superfund, Clean Air Amendments of 1990. And there are more.

The 1872 mining law has been affected numerous times by Federal laws that we have passed back here. Mr. President, I ask unanimous consent to have printed in the RECORD a list of all the different amendments to the 1872 mining law.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

# AMENDMENTS TO 1872, MINING LAW FEDERAL LAWS

1. National Environmental Policy Act (NEPA), 42 U.S.C. 4341-4370a: Requires federal agencies to take interdisciplinary approach to environmental decision-making; and requires consideration of environmental impacts for all federal actions (environmental assessments/environmental impact statements).

2. Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1701-1784: Directs Department of Interior to prevent undue and unnecessary degradation of federal lands.

3. Clean Air Act (CAA), 42 U.S.C. 7401-7642: Requires EPA to designate criteria pollutants and set ambient air quality standards; requires states to develop State Implementation Plans (SIP) to achieve federal ambient air quality standards; requires EPA to set new source performance standards for categories of air pollution sources; requires EPA to set emission standards for sources of hazardous air pollutants; establishes additional level of control to prevent significant deterioration of air quality in certain areas and for certain sources; and allows EPA enforcement of state permits issued under approved SIP.

4. Federal Water Pollution Control Act (Clean Water Act, CWA), 33 U.S.C. 1251-1387: Requires States to Set and Implement Surface Water Quality Standards; requires EPA to Establish Effluent Limitations and Standards of Performance for Categories of Facilities Discharging to Surface Waters; establishes the National Pollutant Discharge Elimination System (NPDES) for Permitting of Point Source Discharges to Surface Waters; requires States to Develop Management Plans for Control of Non-Point Sources of Surface Water Pollution and to Submit Them to EPA for Approval; establishes Programs for protection of Surface Waters from Dredge and Fill Activities; and establishes a Program for Designation of Reportable Quantities of Oil and Hazardous Substances and Reporting of Releases to Navigable Waters.

5. Safe Drinking Water Act (SDWA), 42 U.S.C. 300f-300j-26: Requires EPA to Set Standards for Quality of Drinking Water Supplied to the Public and Allows States to be Delegated Primary Enforcement Authority; and establishes a Program to Regulate Underground Injection Operations (Including Sand Backfill of Underground Mines) and Allows Delegation of Program to the States.

6. Solid Waste Disposal Act (SWDA), 42 U.S.C. 6901-6992k: Requires EPA to Establish a Program for Regulating the Generation, Storage and Disposal of Hazardous Waste and Allows Delegation to the States; requires EPA to Establish Guidelines for State Management of Solid, Non-Hazardous Waste; and requires EPA to Establish a Program for Regulating Underground Storage Tanks Containing Petroleum Products and Hazardous Substances and Allows Delegation to the States.

7. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, Superfund), 42 U.S.C. 9601-9675: Requires Owners/Operators to Report Releases of Hazardous Substances to the Environment; requires Owners/Operators to Inventory Chemicals Handled and Report to EPA and the Public; establishes Owners/Operators Liability for Remedial Actions Necessitated by Releases of Hazardous Substances; and requires EPA to Establish System of Ranking Relative Hazards at Sites, Create a List of Sites Requiring Remediation and Develop Response and Remediation Plans for Such Sites.

8. Toxic Substance Control Act (TSCA), 15 U.S.C. 2601-2671: Requires EPA to Establish



Regulations for Specific Chemicals in Commerce Which Present an Unreasonable Risk to Health or the Environment.

9. Endangered Species Act, 16 U.S.C. 1531-1544: Requires Departments of Interior and Commerce to List species of Plants and Animals Which are Threatened with or in Danger of Extinction; requires Department of Interior to Develop Regulations for Protection of Listed Species; and requires Consideration of Requirements of the Act in All Other Federal Actions (Including Bureau of Land Management and Forest Service Approvals to Operate on Public Land).

10. Migratory Bird Treaty Act, 16 U.S.C. 703-715: Prohibits the Killing of Nearly All Bird Species.

11. Rivers and Harbors Act, 33 U.S.C. 401-467e: Prohibits Disposal of Refuse into Navigable Water.

12. Mining Law of 1872, 30 U.S.C. 22-48: Establishes Procedures for Filing Mining Claims on Public Lands.

13. National Historic Preservation Act, 16 U.S.C. 470: Requires Consideration of Cultural Resource Preservation in Federal Actions.

14. Law Authorizing Treasury's Bureau of Alcohol, Tobacco and Firearms to Regulate Sale, Transport and Storage of Explosives, 18 U.S.C. 841-848: Requires Secretary of the Treasury to Establish Regulations for the Sale, Transport and Storage of Explosives.

15. Federal Mine Safety and Health Act, 30 U.S.C. 801-962: Authorizes Mine Safety and Health Administration to Set Standards for Protection of Worker Health and Safety at Mining Operations.

#### FEDERAL REGULATIONS

1. Procedures for Implementing National Environmental Policy Act, 40 CFR 6: Establishes EPA Procedures for Complying with NEPA; and establishes Requirements for Contents of Environmental Impact Statement.

2. Bureau of Land Management (BLM) Surface Management Regulations, 43 CFR 3802, 3809: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines on Public Lands Under BLM Jurisdiction; requires Environmental Assessment/Environmental Impact Statement to Address Existing Physical, Biological, Visual, Cultural and Socio-Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Prevent Unnecessary and Undue Degradation; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.

3. Forest Service (FS) Regulations, 36 CFR 228: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines on Public Lands Under FS Jurisdiction; requires Environmental Assessment/Environmental Impact Statement to Address Existing Physical, Biological, Cultural and Socio-Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Minimize Adverse Environmental Impacts Where Feasible; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.

4. Federal Air Quality Regulations, 40 CFR 50-54, 56, 58, 60, 66: Establishes Ambient Air Quality Standards and Monitoring Procedures for Criteria Pollutants; establishes New Source Performance Standards and Point Source Monitoring Procedures; and establishes Criteria for Approval of State Implementation Plans.

5. Federal Water Quality Regulations, 40 CFR 110, 112, 114, 116, 117, 122, 123, 125, 130, 136,

230, 232, 401, 421, 436, 471, 33 CFR 320-330: Establishes Regulations for Prevention of Discharge of Oil to Surface Waters; establishes Effluent Limitations and a Permit System for Point Source Discharges to Surface Waters (NPDES Program); establishes Requirements for State Surface Water Quality Standard Setting; establishes Effluent Limitations Guidelines Materials in Surface Waters and Wetlands; establishes Requirements for Reporting of Releases of Oil and Hazardous Substances to Navigable Waters; establishes Procedures for Analysis of Pollutants; and establishes EPA and Army Corp of Engineers Requirements for Disposal of Dredge and Fill.

6. Safe Drinking Water Act Regulations, 40 CFR 141-147: Establishes Primary and Secondary Drinking Water Quality Standards; establishes Procedures for State/Federal Implementation of Drinking Water Standards; and establishes Requirements for Operation of Underground Injection Wells and Procedures for Delegation to the States.

7. Solid Waste Disposal Act Regulations, 40 CFR 240, 241, 243-246, 255-257, 260-268, 280: Establishes Requirements for Management of Hazardous Waste, Including Standards for Generator, Storers, Transporters and Disposers; establishes Requirements for Owners of Underground Tanks Storing Petroleum Products and Hazardous Substances; and establishes Procedures for Delegation of Programs to the States.

8. Superfund Regulations, 40 CFR 300, 302, 310, 355, 370, 372: Establishes the National Contingency Plan for Addressing Remediation of Releases of Hazardous Substances to the Environment, Including the Hazard Ranking System for Determining Which Sites Require Remediation and the National Priorities List of Such Sites; requires Reporting of Releases of Hazardous Substances to the Environment; and establishes Procedures for Owners/Operators to Inventory Chemicals Handled and Report to EPA and the Public.

9. Toxic Substances Control Act Regulations, 40 CFR 761: Establishes Requirements for Use and Disposal of Asbestos and Polychlorinated Biphenyls (PCBs).

10. Endangered Species Act List, 50 CFR 17, 222, 226, 227: Lists of All Threatened and Endangered Species of Plants and Animals Subject to Protection Under the Act; establishes Special Rules for Protection of Some Listed Species; and lists Critical Habitat for Some Species.

11. Historic Preservation Regulations, 36 CFR 800: Establishes Procedures for Federal Actions Regarding Preservation of Cultural Resources.

12. Explosives Regulation, 27 CFR 55: Establishes requirements for sale, transport and storage of explosives.

13. Mine Health and Safety Standards, 30 CFR 56, 57: Establishes Standards for Open Pit and Underground Mines for Protection Of Worker Health and Safety.

#### STATE LAWS

1. Nevada Air Pollution Control Law, N.R.S. 445.401-445.710: Establishes Authority for Implementing Federal Ambient Air Quality Standards and other Clean Air Act Requirements; and creates State Environmental Commission.

2. Nevada Water Pollution Control Law, N.R.S. 445.131-445.354: Establishes Authority to Control Sources and Ground Water Pollution Including Point and Non-Point Sources and Underground Injection; requires Setting of Surface Water Quality Standards; and establishes Authority for Regulation of Public Drinking Water Supplies.

3. Nevada Hazardous Waste Disposal Law, N.R.S. 459.400-459.600: Establishes Authority for Regulation of Hazardous Waste Manage-

ment; and establishes Authority to be Delegated Federal Program Under RCRA.

4. Nevada Solid Waste Disposal Law, N.R.S. 444.440-459.600: Establishes Authority for Regulation of Solid Waste Management; and prohibits Discharge of Sewage Except as Authorized by Appropriate Governing Body.

5. Nevada Reclamation Law, N.R.S. 519A.010-519A.290: Establishes Authority for Reclamation Regulations Applicable on Public and Private Land; and requires Posting of Financial Assurance to Complete Reclamation.

6. Nevada Underground Storage Tank Laws, N.R.S. 459.800-459.856 and N.R.S. 590.700-590.920: Establishes Authority to be Delegated RCRA Program for Management of Underground Storage Tanks; and imposes Fees on Owners/Operator of Petroleum Underground Storage Tanks.

7. Nevada Wildlife Protection Law, N.R.S. 502.390: Establishes Authority for Regulation of Ponds Containing Chemicals by Nevada Department of Wildlife.

8. Nevada Water Resources Law, N.R.S. 533.010-533.540, 534.010-534.190 and 535.010-535.110: establishes Authority for Designation of Surface and Ground Water Rights; establishes Authority and Procedures for Permitting Construction Of Dams and Impoundments; and establishes Authority to Regulate Drilling, Construction and Abandonment of Water Wells.

9. Nevada Dredging Law, N.R.S. 503.425: Requires Permit Prior to In-Stream Mining by Dredging.

10. Nevada Historic Preservation Laws, N.R.S. 381.001-381.445, 383.001-383.121 and 384.005-384.210: Establishes Requirements for Mining Operations in State Historic Mining Districts; and establishes Requirements Regarding Disturbances to Native American Burial Grounds.

11. Nevada Geothermal Resources Law, N.R.S. 534A.010-534A.090: Establishes Authority to Regulate Geothermal Wells.

12. Nevada Mineral Resources Law, N.R.S. 513.011-513.113: Establishes Authority for Regulation of Radioactive Materials.

13. Nevada Radioactive Materials Law, N.R.S. 459.001-459.600: Establishes Authority for Regulation of Radioactive Materials.

14. Nevada Occupational Health and Safety Law, N.R.S. 618.005-618.720: Establishes Authority for Regulation of Boilers and Pressure Vessels.

15. Nevada Mine Inspection and Safety Law, N.R.S. 512.002-512.270: Requires Operator to Provide Notice to State Mine Inspector of Opening and Closing a Mine; requires Operator to Report Production, Mine Activity and Status, Accidents, Injuries, Loss of Life and Occupational Illnesses at Least Annually; and requires Division of Mine Inspection to Annually Inspect All Mines for Health and Safety Concerns.

16. Nevada Contractor's Law, N.R.S. 624.010-624.360: Requires Contractor's License Prior to Facility Construction.

#### STATE REGULATIONS

1. Nevada Air Quality Regulations, N.A.C. 445.430-445.944: Sets Ambient Air Quality Standards for Criteria and Toxic Pollutants; and contains Permitting Procedures for Sources of Criteria and Toxic Pollutants.

2. Nevada Water Pollution Control Regulations, N.A.C. 445.070-445.174: Establishes Permit Program for Point Source Discharges to Surface Water; and establishes Permit Program for Construction, Operation and Closure of Mining Facilities (Not Yet Codified in N.A.C.).

3. Nevada Water Quality Standards, N.A.C. 445.117-445.1395: Establishes Beneficial Uses and Water Quality Standards for All Surface Water Bodies in the State.

4. Nevada Drinking Water Regulations, N.A.C. 445.244-445.262: Establishes Regulations for Quality of Public Drinking Water

Supplies (Including Non-Community, Non-Transient Systems Such as Newmont Gold's).

5. Nevada Hazardous Waste Management Regulations, N.A.C. 444.8500-444.9335: Establishes Requirements For Management of Hazardous Waste, Including Standards for Generators, Storers, Transporters and Disposers.

6. Nevada Solid Waste Disposal Regulations, N.A.C. 444.570-444.748: Establishes Standards for Management of Solid, Non-Hazardous Waste.

7. Nevada Underground Injection Control Regulations, N.A.C. 445.422-445.4278: Establishes Regulations for Underground Injection Wells (Including Sand Backfill of Underground Mines).

8. Nevada Sewage Disposal Regulations, N.A.C. 444.750-444.840: Establishes Requirements for Disposal of Sewage.

9. Nevada Reclamation Regulations: Will Require Reclamation of Surface Disturbances Due to Exploration and Mining on Public and Private Lands; and will Require Posting of Financial Assurance to Complete Reclamation.

10. Nevada Wildlife Protection Regulations N.A.C. 502.460-502.495: Requires Permits for Ponds Containing Chemicals Toxic to Wildlife; and requires Owner/Operators to Take Measures to Preclude Wildlife Mortality.

11. Nevada Geothermal Regulations, N.A.C. 534A.010-534A.690: Establishes Requirements for Design and Operation of Geothermal Wells.

12. Nevada Mineral Resources Regulations, N.A.C. 513.010-513.390: Requires Mine Owners/Operators to Annually Report Their Production.

13. Nevada Radioactive Health Regulations, N.A.C. 459.180-459.374: Requires License for Uses of Radioactive Materials (i.e. Densimeters).

14. Nevada Occupational Safety and Health Regulations, N.A.C. 618.010-618.334: Requires Registration of Boilers and Pressure Vessels Prior to Operation.

15. Nevada Health and Safety Standards for Open Pits and Underground Mines, N.A.C. 512.010-512.178: Establishes Standards in Addition to Federal Ones for Open Pit and Underground Mining Operations Regarding Protection of Worker Health and Safety.

Mr. REID. Mr. President, I ask the Chair to advise the Senator when he has 5 minutes left of his 20 minutes.

There has been a lot of talk about how terrible things are in the mining industry. Yet, the Bureau of Land Management, a Government agency that I have great respect for, that is doing its best, controls most of the Federal lands in the State of Nevada.

The Bureau of Land Management has put out a brochure. This isn't from the State of Nevada, the State of Alaska, or the State of Colorado. This is from the Federal Government. This applies to Nevada. It says on the front, "BLM, Mining Reclamation, You'd Be Surprised." My friend from Arkansas talked at great length about how bad cyanide is. Let me read from this brochure that is now being put out to everybody who wants a copy in the State of Nevada and the other Western States:

Cyanide is a toxic chemical which is used in most gold and silver mining operations. BLM, again in cooperation with Nevada's State agencies, such as Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining oper-

ations using cyanide do so in an environmentally sound manner.

All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths.

Birds do not die as a result of cyanide:

All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists.

Gold or silver ore leached with cyanide must be rinsed to reduce levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

All exploration, mine and reclamation plans must be reviewed under the provisions of the National Environmental Policy Act.

This brochure goes on to show the great things done with reclamation in mining. It shows the equipment that is doing this. It is amazing what they have done to reclaim the land to its former state.

There is a mine near my hometown of Searchlight, NV, that is desert. When they pull out the Joshua trees, yuccas, and all the others, they have a nursery for those. And when that land is reclaimed, they have all those plants that they have taken out of the land and they put them back in. These aren't a bunch of environmental bandits out there tearing up the land.

The Federal Government agrees. My friend from Arkansas should read what the Federal Government wants. I suggest that my friend, the Secretary of the Interior, read the publication put out by his own agency. I say that about the Secretary of the Interior. He hasn't been fair to mining. I respect the work he has done as Secretary of the Interior in all areas except for mining, where he hasn't done a very good job. He is opposed to mining. He makes big shows when a land patent is issued and issues a big check saying it is not fair that we have to give this land to some miner. Remember these mining companies pay an average of a quarter of a million dollars every time a patent is issued. In short, the Secretary should read his own literature. The BLM and mining operations are continually looking for the best way to revegetate and reclaim mining lands. It shows pictures of it. It shows final reclamation at the Pinson Mine.

I ask unanimous consent that this brochure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUREAU OF LAND MANAGEMENT,  
NEVADA STATE OFFICE,  
Reno, NV.

#### MINING RECLAMATION—YOU'D BE SURPRISED

You may not know that on public lands in Nevada: All mining and exploration projects on public lands must be reclaimed.

All new mining operations greater than five acres, on public and private lands in Nevada, must submit a detailed mining and reclamation plan, must be bonded to ensure compliance, and must protect the environment.

Under the State of Nevada's new mining reclamation law, all operations must comply with numerous environmental protection

programs. The Bureau of Land Management (BLM) and the State of Nevada have developed a cooperative mine plan review process which streamlines the approval process.

BLM AND MINING OPERATORS ARE CONTINUALLY LOOKING FOR THE BEST WAY TO REVEGETATE AND RECLAIM MINED LANDS.

Revegetation test plots at Cominco American's mine in Elko County, Nevada, help to determine what combination of seed, fertilizer, mulch and topsoil create the best revegetation results. BLM requires test plots at many mines in Nevada to evaluate local growing and rainfall conditions. These test plots enable mining operators and BLM to determine the most successful revegetation methods.

You might be surprised to learn that Nevada produced over 60% of the Nation's gold in 1990!

#### COOPERATIVE EFFORTS ENHANCE RIPARIAN AREAS.

Mining companies are working with the public to restore and revitalize public lands—those affected by old mining operations and even lands not in mining areas. The Sonoma Creek stream bank stability project near Winnemucca demonstrates how cooperation among the various users of public lands can enhance riparian areas in Nevada. Mining industry, ranching and government people all volunteered, with BLM, to build gabions and stream structures to improve the aquatic habitat of Sonoma Creek.

BLM, public land user groups and the mining industry plan more cooperative efforts in the future. BLM invites the public to help identify and participate in these activities.

#### CYANIDE MANAGEMENT

Cyanide is a toxic chemical which is used in most gold and silver mining operations. BLM, again in cooperation with Nevada's state agencies, such as the Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide, do so in an environmentally sound manner.

All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths. All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists.

Gold or silver ore leached with cyanide must be rinsed to reduce cyanide levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

All exploration, mine and reclamation plans must be reviewed under the provisions of the National Environmental Policy Act.

#### EXCELLENCE IN MINING RECLAMATION

In 1990, Governor Bob Miller of Nevada awarded three "Excellence in Mining Reclamation" awards to exploration and mining operations in Nevada.

Pinson Mine, Borealis Mine and Independence Mining Co. were recognized for outstanding and unique practices and projects.

Mr. REID. This brochure indicates also that mining companies, one of which is pictured here, have received an award for excellence in mining reclamation.

Mr. President, the State of Nevada is totally different from the State of Alaska. The State of Nevada is the most mountainous State in the Union, except for Alaska. We have lots of mountains, over 11,000 feet high—32 to be exact. Alaska has a lot of water. We don't have a lot of water. Mining regulations in the State of Alaska should be different than those in the State of



Nevada. The State of Alaska should have some control in setting the standards for mining reclamation, mining bonding and other such things. The State of Nevada should have different standards because we live in a desert in Nevada. That is the point.

Each State is subject to different water quality conditions, air-related issues, issues that stem from local climate conditions, disposal criteria, and other issues that are distinct from State to State. That is something the Federal Government must recognize, and the agency does. The BLM recognizes that because they have different standards in each State. That is why the present regulations are working pretty well.

Also, Mr. President, understand this. We have asked the National Academy of Sciences to study this. We don't tell them what result to reach. We will accept what they come up with. Why shouldn't those who want these regulations changed not accept it also? We are not asking for some predisposed venue. We are not asking for some agency that is going to rule in a certain way. We have asked the finest science body in the world to look at these regulations and find out if they make sense.

Mr. President, I will offer a number of exhibits here. One is a Western Governors' Conference resolution that indicates there is no need for what the Secretary of the Interior is trying to do.

We have a series of letters from Governors from all over the United States talking about why the Secretary is wrong.

Mr. President, I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WESTERN GOVERNORS' ASSOCIATION,  
Medora, ND, June 24, 1997.  
POLICY RESOLUTION 97-006

Sponsors: Governors Miller, Leavitt, and Symington.

Subject: Regulation of mining.

#### A. BACKGROUND

1. Federal lands account for as much as 86 percent of the lands in certain western states. Most of these lands are "public lands," under the stewardship of the Bureau of Land Management (BLM).

2. The western states have legal jurisdiction over the public lands, and have a strong interest in seeing that the environment is protected on public and private lands within state boundaries. While the BLM manages public lands throughout the country, laws, policies and management decisions for public lands have the most direct impacts on the lives of the citizens of the western states where the greatest amount of public lands are located.

3. Mining operations on public lands are an important part of the economy of the West. They provide thousands of high-paying jobs in predominately rural areas of the West and they provide important revenues to states. The mining industry also continues to play an important role in the nation's economy and security.

4. Under the Federal Land Policy and Management Act (FLPMA), the BLM has authority to regulate mining and other activities

on public lands to "prevent unnecessary or undue degradation of the lands." The BLM adopted rules in 1981—known as the 3809 rules—controlling impacts of mining activities on the public lands. These rules contain narrative reclamation standards, require operators to submit a plan of operations for approval including a reclamation plan, and require compliance with federal and state environmental, wildlife protection, cultural resources and reclamation laws.

5. The Secretary of Interior announced earlier this year his intention to revise the 3809 rules, and appointed a BLM Task Force to explore changes that should be made to the existing rules. The Secretary has directed the Task Force to consider numerous changes to the 3809 rules, including the adoption of significant new environmental regulatory requirements in the form of performance standards.

6. The BLM 3809 regulations do not exist in a regulatory vacuum. There exists today a large body of federal, state, and local environmental laws and regulations that govern mineral exploration, development and reclamation. This includes Federal laws delegated to the states, such as the Clean Water Act and the Clean Air Act. The existing 3809 rules are an important part of the regulation of mining on the public lands.

7. Western states also have comprehensive state mining regulatory programs, enforced in coordination with federal land management agencies. These state programs set criteria for permitting exploration, development and reclamation of mining operations, with provisions for financial assurance, protection of surface and ground water, designation of post-mining land use, and public notice and review.

#### B. GOVERNORS' POLICY STATEMENT

1. The Western Governors believe that responsible mining activity on the public lands is important and states have a vital interest in assuring that the environment is protected and that mining sites are reclaimed for productive post-mining uses.

2. Effective regulation of hard rock mining and reclamation operations should continue to utilize and build on existing state programs, state and federal laws and cooperative agreements between state and federal agencies. Because of the geographic and climatic diversity of the states and the location of many mines on a combination of public and adjacent private lands, the states are the most appropriate and sensible level of environmental regulation for mining which occurs on the public lands.

3. Revisions to 3809 regulations may not be necessary. More consideration should be given to compliance with existing regulations. States have filled and should continue to fill any deficiencies identified in the statutory and regulatory framework and its enforcement. Establishing burdensome or duplicative new BLM regulatory requirements for mining is not in the best interest of states or the nation.

4. Any new BLM regulations must recognize the dramatic improvements since 1981 in state and federal environmental regulation of mining on public lands and must not duplicate or be inconsistent with those requirements.

5. The States have concurrent jurisdiction with the BLM over public lands and should therefore be included as partners in any effort to amend the 3809 regulations.

6. The bonding requirements of the BLM, as published in the Federal Register dated February 28, 1997, should be revisited as part of the effort to amend the 3809 regulations due to the integral nature of bonding with the entire regulatory and reclamation process.

7. The BLM time frame for regulatory review is too short to provide sufficient review and comment by stakeholders.

#### C. GOVERNORS' MANAGEMENT DIRECTIVE

1. Direct staff to work with the WGA Mine Waste Task Force to participate in the ongoing effort by the Bureau of Land Management to revise the 3809 regulations, emphasizing the states' interest in avoiding duplication, needless regulatory burdens and in preserving primacy of state regulation in the environmental area.

2. The Task Force should provide assistance and support to the BLM Task Force on the status and efficacy of state regulatory programs, the status of memoranda of agreement with the BLM, and should make recommendations for how current state programs may be improved where applicable.

3. This resolution is to be transmitted to the President of the United States, the Vice-President, the Director of the Office of Management and Budget, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, all appropriate committees of jurisdiction in the United States Senate and House of Representatives, and the western states' congressional delegation.

STATE OF ARIZONA,  
Phoenix, AZ, June 19, 1998.

Hon. FRANK MURKOWSKI,  
Chairman, Energy & Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce duplicatory, burdensome and costly new regulations that would place a hardship on states that currently regulate hardrock mining.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations. Further, that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that need to be addressed.

I strongly support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent cooperative working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to my state. I appreciate Congress' continuing interest in this matter.

Sincerely,

JANE DEE HULL,  
Governor.

STATE OF UTAH,  
Salt Lake City, UT, July 8, 1998.

Hon. ORRIN HATCH,  
U.S. Senate, Washington, DC.

DEAR ORRIN: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for

hardrock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce redundant, burdensome and costly new regulations that would place a hardship on states that currently regulate hardrock mining.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations and that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that needed to be addressed.

I support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Sincerely,

MICHAEL O. LEAVITT,  
Governor.

—  
STATE OF WYOMING,  
OFFICE OF THE GOVERNOR,  
Cheyenne, WY, July 8, 1998.

Hon. SLADE GORTON,  
U.S. Senate, Chairman, Interior Appropriations Subcommittee, Washington, DC.

DEAR SENATOR GORTON: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hard rock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce redundant, burdensome, and costly new regulations that would place a hardship on states that currently regulate hard rock mining. Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations and that an independent reviewer, such as the National Academy of Sciences, should evaluate the current and state regulatory regime to determine if there are deficiencies that need to be addressed.

I strongly support the approach set forth by my colleague, Governor Miller. It is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hard rock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job of regulation of the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Best regards,

JIM GERINGER,  
Governor.

OFFICE OF THE GOVERNOR,  
Boise, ID, June 24, 1998.

Hon. SLADE GORTON,  
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Bureau of Land Management has proposed significant revisions to its 3809 surface management regulations for hardrock mining. I have followed this process closely and believe the proposed changes are redundant, burdensome and costly. These revisions, as currently written, would place a hardship on our efforts to regulate mining in Idaho.

Governor Bob Miller of Nevada has suggested that an independent reviewer, such as the National Academy of Sciences, evaluate the current federal and state regulatory regimes to determine if there are problems that need to be addressed. I support Governor Miller's suggestion and urge you to support efforts to initiate and fund such a study.

Very truly yours,

PHILIP E. BATT,  
Governor.

—  
OFFICE OF THE GOVERNOR,  
STATE CAPITOL,  
Santa Fe, NM, July 2, 1998.

Hon. FRANK MURKOWSKI,  
Chairman, Energy & Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hard rock mining. I have followed the process of regulatory development, and am greatly concerned that this rewrite is an attempt by DOI to interfere with and override state regulatory programs that currently have jurisdiction over hard rock mines.

New Mexico's hard rock mining law is one of the best in the country, and has jurisdiction over mines on federal, state, and private lands. The draft regulations DOI has proposed are not more stringent than those of New Mexico, but they could create significant problems for our program and our mines by imposing conflicting requirements, and establishing an unnecessary process for oversight and program certification.

Recently, one of my colleagues, Governor Bob Miller of Nevada testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations. He suggested further that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that need to be addressed.

Despite frequent requests from the concerned states, DOI has not provided any evidence that the current 3809 regulatory structure is not working. Problems with 3809 are largely anecdotal, and commonly related to abandoned mines, which would not be addressed by the proposed rewrite. New Mexico and other western states have filled in the gaps they perceived in 3809 with state laws. New Mexico has an excellent working relationship with the federal land managers, and together we are doing a good job regulating the mining industry. The evidence is before us daily. It appears most appropriate that DOI should assemble this evidence, present it to your committee and allow our elected representatives to decide what is best for the states they represent.

This process of regulatory development cries out for a concrete foundation to justify the time and expense that all parties are committing to it. I appreciate your continuing interest in this matter, and hope you will

consider requesting DOI or another reviewer to provide that foundation before the process moves any further.

Sincerely,

GARY E. JOHNSON,  
Governor.

Mr. REID. Mr. President, we had testimony taken at Chairman MURKOWSKI's hearing in the Committee on Energy and Natural Resources of a number of different people. I ask unanimous consent that it be printed in the RECORD, together with a letter from the Western Governors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM A HEARING HELD BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT, TUESDAY, APRIL 28, 1998

STATEMENT OF HON. BOB MILLER, GOVERNOR OF NEVADA

GOVERNOR MILLER. Thank you very much, Mr. Chairman. In many respects, I can just say "ditto." In any case, I do appreciate the opportunity to join Nevada's two Senators, Harry Reid and Dick Bryan, to testify today on this legislation.

This is not the first time I have spoken to this committee about the need to bring reform to the Nation's mining law, a law that was enacted 125 years ago, in 1872. For example, in 1993, I expressed my opposition to Senate bill 257, the Mineral Exploration and Development Act. Since then, there have been several attempts to resolve the debates regarding the reform of the 1872 mining law.

While reform measures are never easy, I appreciate this committee's persistence in trying to find common ground.

I opposed S. 257 for the same reason that I oppose S. 326 and S. 327 today. These bills threaten the survival of one of Nevada's mainstay industries, an industry which is critical to the economic health of many rural communities.

It is well known that Nevada was founded on mining. What may not be as well known is that Nevada continues to be a world leader in gold production and produces the most silver, magnesite, and barite in the Nation. Remarkably, Nevada has achieved these production levels and is arguably the most environmentally responsible mining region in the world. Yet, I do not advocate the status quo.

Congress and the States should continue to work with the industry and the environmental community to minimize mining's effects on the land and on other land users.

All of us here today are concerned about mining reform, the industry, and the environment. The questions of a fair patent law to the taxpayers, mining contribution to the Federal Treasury through a royalty and the environmental responsibility of mining operations are all legitimate concerns.

We must weigh these concerns with the knowledge that the mining industry is an important contributor to the Nation's economy, and to my State's economy in particular.

Nevada's mining renaissance has created approximately 13,000 jobs directly related to mining, with an additional 45,000 jobs indirectly related to the industry. These are high paying jobs that average close to \$50,000 per year.

Rural communities, such as Austin, Carlin, Elko, and Winnemucca, are all dependent on a vibrant mining industry. As all of you wrestle with these issues, I would hope that you would keep in mind those communities

and those families who built a future around a moderate, environmentally sensitive mining industry.

I believe that S. 1102, the Mining Law Reform Act of 1997, shows significant progress toward resolving the debates about mining law. While minimal change could be made to the bill, it is time to reach finality.

For too long, the mining industry has operated with uncertainty about the future of mining law. The industry must account for many variables that have profound effects on our communities. The price of gold, for instance, is testament to the vulnerability of this industry in an ever changing global market.

Since July of 1997, the U.S. has lost 2,200 operational jobs from the mining industry as a result of the drop of the price of gold. Over the past 4 months, approximately 680 jobs have been lost in Nevada.

To illustrate the point, the market value of gold is hovering at around \$300 per ounce. In comparison, production costs per ounce of gold average at best in Nevada between \$260 to \$280 per ounce. Many mines throughout the Nation operate at well over \$300 per ounce. It is imperative that we minimize the variables and eliminate the uncertainty about mining reform.

While I am familiar with the contents of each of these bills, I will confine my comments to some of the broader aspects of each as they relate to the reform of mining law.

There are mining law experts here today, obviously, who can go into much greater depth.

First, I would like to make some brief remarks about the Department of Interior initiative to amend its reclamation regulations, termed the 3809 regulations, which I am sure the Secretary will address in a few moments.

Since the beginning of this initiative, I have questioned the legitimacy of, in essence, changing mining law through an administrative process. I not only have had questions about the motivations, but, moreover, I have had concerns about the process by which the Department of Interior is amending these regulations. But after repeated complaints about the process through the Western Governor's Association, where we have a nearly unanimous vote on this issue, the issue of process has been dealt with.

However, I continue to have substantive concerns with regard to the direction in which the proposed amendments are going. In short, Interior is moving the responsibility for environmental oversight of mining operations in my State and other States to here in Washington, D.C.

This attempt at seizure of control by Interior is particularly perplexing in view of the fact that many States, especially Nevada, have moved aggressively to address the environmental concerns of mining operations.

To date, there has been no real justification offered by the department regarding the need to make changes other than—and I quote a memo of January 6, 1997—directing the department to begin the process of drafting such regulations. It states: "It is plainly no longer in the public interest to wait for Congress to enact legislation that corrects the remaining shortcomings of the 3809 regulations. Instead, the time has come to resume the process of modernizing the 3809 regulations first promised at the end of the Carter Administration and begun at the end of the Reagan Administration. To that end, I direct you to restart this rulemaking process by preparing and publishing proposed regulations."

During my tenure as Governor, I have overseen the adoption of Nevada's State law requiring reclamation of all lands disturbed

by mining. My State has also developed comprehensive regulations governing water quality standards of mining operations. These requirements are working well because they were crafted with a great deal of cooperative effort by the environmental community, the mining industry, and State and Federal regulators.

Instead of proposing changes without sufficient justification, Interior should work with the States, the industry, and the environmental community to pinpoint the possible needed modifications regarding reclamation.

Or perhaps Congress could help us with this impasse by requesting an independent evaluation of the 3809 regulations by a third party, such as the National Academy of Sciences.

I believe that this type of study would determine that Nevada's reclamation law could serve as the model for the rest of the States.

On two separate occasions, the United States Environmental Protection Agency has praised Nevada for its hardrock mining regulatory program, declaring that, "Nevada's regulations are considered to be among the best, the most comprehensive, and several gold mining States now have or are developing similar requirements."

The preferable solution to the 3809 debate is the passage, in my opinion, of S. 1102. The sponsors of this bill wisely propose a comprehensive approach to mining reform which offers reasonable answers to all of the major issues, including permitting and surface management, royalties, patents, and abandoned mines.

On the other hand, S. 326 and the Abandoned Hardrock Mines Reclamation Act and S. 327, the Hardrock Mining Royalty Act are piecemeal remedies that resemble previously proposed legislation which Nevada and this committee have consistently found unacceptable.

The mine permitting and surface management provisions within S. 1102 will conform to those activities already being conducted by our State regulators, as well as the U.S. Bureau of Land Management. S. 1102 defers to existing State reclamations and bonding requirements where they meet the intentions of the Federal act. And the bill references the other State and Federal acts already used to regulate mining activities with respect to the environment.

One of the most widespread criticisms of the 1872 mining law is its lack of royalty. S. 1102 details a methodology to collect a 5 percent net royalty proceeds that is fair to the public and the industry. This royalty, as you stated, Mr. Chairman, closely resembles the State of Nevada's net proceeds system, which has proven to be highly effective.

Nevada's system generates millions of dollars annually, approximately \$29 million during Fiscal Year 1997 alone. The administrative cost of our program is about \$200,000 annually, or 1/2 of 1 percent of the revenue.

S. 327's 5 percent net smelter royalty return would cripple the production of minerals by taxing anywhere from estimates of 92 percent to 98 percent of a mine's gross income. In addition to the serious, immediate negative impact, the long-term effects are significant because the growth of the industry would likely halt or be limited due to the high royalty level.

Congress should focus on placing royalty on the value of Federal mines after costs associated with finding and producing those minerals are subtracted. Such royalty would be on the value of the mineral in the ground, before any additional value was added.

A royalty has to be found that does not close mines and stop new development. I believe that S. 1102 passes that test.

While S. 326 has no royalty provisions, it would charge a reclamation fee which would

be in addition to other royalties, such as proposed in S. 327, thereby creating an even greater burden on miners. The appropriate vehicle to fund abandoned mine clean-up is found also in S. 1102.

The patenting is an essential means to insure the production of minerals. Patenting mitigates the risk of losing the substantial financial investments taken by mining operations during the often long permitting periods.

While S. 327 would abolish this necessary security process, S. 1102 would change the patent prices to reflect the value of today's public land. It would wisely halt the \$2.50 to \$5 per acre fee and sell the patent for the surface land's fair market value, which I think you addressed also.

Reclaiming Nevada's abandoned mines is a tall task, one which the State has aggressively worked to address. With funding through modest assessments on the industry which have been supported by the industry, Nevada has been able to secure over 4,000 abandoned mine sites. Yet there are thousands more sites that need attention to prevent risk to public health.

S. 1102 establishes an acceptable funding mechanism to continue this effort and to secure dangerous sites.

Senator Craig has addressed the major issues pertaining to mining law reform in a way that is good for the public, the environment, and the industry, and I compliment him and all of the other sponsors for their work in support of reasonable mining reform.

As this committee and the Senate further address this issue, I hope that you keep in mind, as I said previously, the communities that rely on mining. This industry has built towns and communities throughout the West which need to be kept at the forefront of the thought process as you proceed with this issue.

Thank you very much for the opportunity to appear, Mr. Chairman.

WESTERN GOVERNORS' ASSOCIATION,  
Denver, CO, September 15, 1997.

Hon. HARRY REID,  
Senator, Washington, DC.

DEAR SENATOR REID: We, the undersigned, thank you for your efforts and support to include states with hard rock mining on public lands as co-regulators in the Bureau of Land Management's current 3809 rulemaking process. We commend you for highlighting that states have legal jurisdiction, concurrent with the Secretary of the Interior's jurisdiction, to regulate activities on the public lands.

As you know, the states impose strict controls on mining activities on both public and private lands within their borders. Our states work closely with federal land management agencies—often through cooperative agreements—to ensure that mining activities are comprehensively regulated to control environmental impacts. These federal-state partnerships should be preserved not disrupted by new federal regulations adopted without the appropriate justification or state input.

Representatives of the Bureau of Land Management and the Department of Interior did consult with western state mining regulatory staff prior to the formal scoping meetings for developing an Environmental Impact Statement for the proposed rulemaking. However, it became clear during that meeting that BLM's rulemaking was undertaken not because of identified problems on-the-ground but because there was direction to do so from the Department of Interior. It appears that direction essentially is framing the rulemaking rather than a conclusive study such as that called for in your amendment. Attached for your information is a

copy of state comments to the Department summarizing the issues raised at that meeting and a copy of a resolution western governors adopted on the subject in June.

We want to bring to your attention the fact that the Unfunded Mandates Act of 1995 exempted from FACA consultations between state and federal governments that involve their intergovernmental responsibilities and administration. We support that exemption. Your amendment's creation of a unique advisory committee for the purpose of a joint study, however, does not appear to undermine the exemption created by the Act.

In closing, we support your amendment because it recognizes our concerns about the states' role as co-regulator and it stresses the need to avoid regulatory duplication. We will make our staff available to the Department of the Interior as well as committees of Congress to ensure that we work together to protect the environment in a coordinated, cost-effective manner.

Thank you, again, for the interest you have shown in the states' role in environmental management and regulation.

Sincerely,

BOB MILLER,  
*Governor, State of Nevada.*

PHIL BATT,  
*Governor, State of Idaho.*

GARY JOHNSON,  
*Governor, State of New Mexico.*

JANE DEE HULL,  
*Governor, State of Arizona.*

MIKE LEAVITT,  
*Governor, State of Utah.*

MARC RACICOT,  
*Governor, State of Montana.*

ED SCHAFER,  
*Governor, State of North Dakota.*

JIM GERINGER,  
*Governor, State of Wyoming.*

Mr. REID. Mr. President, what we have to realize here is that this is an effort to be fair. The language in the bill calls for a study by the National Academy of Sciences. I repeat. We have not asked them to find in any certain way. Whatever they come up with is what we will go along with.

I think that we owe the American people an honest debate about the current regulations for hard rock mining and all the disasters that have gone on in the past. There are a number of Superfund sites. That is one reason Superfund was passed—because of environmental degradation that had taken place in the years gone by. Mining was part of that. We are not part of that anymore. I think that is good.

We owe the American people an honest debate about the current regulations of hard rock mining. We owe them the opportunity to know about mining, and for the first time the truth about the environmental practices employed by modern-day mining—not what went on 30 years, 40 years, 50 years, or 100 years ago. We owe the tens of thousands of Americans who make a living at mining—or some occupation that relies on mining—to know that certainly their jobs will be there when they show up in the morning.

I say to everyone within the sound of my voice mining affects more than the people that go down in the Earth or into the open pits. It affects more than them because we have industries all over America that rely on mining. These huge trucks that haul the ore out of the open pit operations cost over \$2 million. To replace the tires on one of those trucks costs over \$25,000 each. Underground operations are very expensive. That equipment comes from other parts of the United States other than the western part of the United States.

This industry is important to the economic viability of this country. There is no one in this body, the Department of the Interior, or the mining industry that can predict the outcome of the review conducted by the National Academy of Sciences. I can almost assure you the results will be fair. That is all we are asking.

But let me say that I think we should approach this on a nonemotional basis. When the study is completed, we will go forward as indicated in the language that is in this bill with whatever they recommend.

Mr. President, it is important that this amendment fail. It is not good legislation. It is something we have debated time and time again—just in a different setting.

I ask my colleagues to join in doing what is right for an industry that is very important to the economic viability of this country.

Mr. MURKOWSKI. Mr. President, might I ask what time remains on either side? Senator BUMPERS is controlling the amendment.

The PRESIDING OFFICER. Each side has approximately 38½ minutes remaining.

Mr. MURKOWSKI. I thank my colleague, the Senator from Nevada. I yield time to Senator BRYAN.

Mr. BRYAN. Mr. President, I thank the chairman.

Mr. President, I rise in opposition to the BUMPERS amendment.

This past summer, as I have each summer since being a Member of the Senate, I spent most of my time in what we in Nevada refer to as "cow county" in rural Nevada. Most of that time I spent in places that are not widely known outside of Nevada. I was in Wells, Wendover, Elko, Battle Mountain, Winnemucca, Lovelock, Ely—some of the smaller communities in our State, but communities that are very dependent upon mining as the principal base of their economy.

In the northeastern part of our State, as a result of the situation that relates to the international pricing of gold at or near record levels over the last 20 years, these communities are hurt. These are good-paying jobs of \$46,000 or \$47,000 a year with the full range of health benefits. They are premier jobs. These communities are hurting. Sales tax collections are down.

So this is a major concern about what is happening to the principal eco-

nomie base in the northeastern part of our State, which is a mining industry.

I rise in opposition to the amendment offered by my friend and colleague from Arkansas that would prevent the National Academy of Sciences from studying Federal and State environmental regulations applicable to hard rock mining on Federal lands.

As many of my colleagues from the West are aware, the Interior Department is proposing major revisions of the regulations that govern hard rock mining on public lands known as 3809 regulations. The regulations were originally promulgated in 1980 and require miners to submit plans for operations for approval by the BLM. The existing regulations require mine operators to comply with all Federal and State environmental laws and regulations, require that lands disturbed by mining be reclaimed, and require that bonds be posted to assure that reclamation is complete.

The State of Nevada has one of the toughest—if not the toughest—State reclamation programs in America. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, the Clean Air Act, and the Endangered Species Act, among many others.

Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted.

Companies must also file a surety or a bond with the State and the Federal land manager in an amount to ensure the reclamation of the entire site prior to receiving a reclamation permit.

Let me just say parenthetically that both as Governor and Senator I have been to these mining locations for many, many years. Mining today is much different than mining was even a generation ago, and much, much different than it was a century ago.

Some of the well-advertised misdeeds of mines in the past have to be freely acknowledged as something that is a source of major concern in terms of its environmental impact. I think it is an embarrassment to the modern-day mine manager whose philosophy and approach is much different and who is sensitive to the concerns as to the environmental impact. That represents the new Nevada and the mining operations that exist in my State with which I have firsthand familiarity.

A number of the Western Governors, including our own Governor of Nevada, Governor Bob Miller, have expressed genuine concern about the 3809 rule-making—that it will unnecessarily duplicate existing Federal and State regulatory programs. Governor Miller, in his testimony before the Senate Energy and Natural Resources Committee earlier this year, suggested that Congress call for an independent evaluation of the need to revive the 3809 regulations, and made the suggestion that

the National Academy of Sciences would be an appropriate organization to conduct a sufficient study. I concur. The academy has a preeminent reputation for fairness and balance. This is not a committee that is associated with the mining industry, nor controlled directly or indirectly by them.

I am pleased that the Appropriations Committee saw fit to follow the suggestion of Governor Miller, because I must express that I, too, have serious questions concerning the need for the Interior Department's proposed regulations and revisions. The current 3809 regulations require compliance with all existing Federal and State environmental standards and requirements, including the Clean Water Act, the State water quality standards in particular.

The Interior Department proposes to add a new layer of requirements on top of existing laws for both surface and ground water which extends beyond the agency's regulatory reach—far beyond management and protection of Federal lands. These proposed rules, if adopted, would result in inconsistent or duplicative water quality standards or technology requirements because BLM can no longer accept State or EPA determinations as compliance with the 3809 regulations. I must say it is somewhat ironic that the duplication of existing Federal and State water quality programs resulting from this proposal will, in my judgment, impose substantial additional costs on the Bureau of Land Management without any corresponding environmental benefits.

The proposed regulations allow States to continue the common practice of joint administration of mine regulation—and this is significant—but impose unrealistic demands for Federal approval of State programs. The Interior regulations will effectively federalize reclamation laws in all of the Western States even on non-Federal land because the States must amend their laws and regulations to comply with the Federal model in order to enter into an agreement for joint administration. Interior has proposed this requirement without any showing that existing State reclamation laws and programs are inadequate.

And finally, the proposed regulations include numerous additional procedural and substantive requirements that will encourage delay in mine permitting and appeals and litigation over permitting decisions. It is clear that the Secretary of Interior is attempting to rewrite the mining law through the regulatory process. I share the Secretary's desire to update the mining law, and I would say for the record that Nevada's mining industry is in the forefront of recognizing that the mining law of 1872 needs to be updated. But that is a job for Congress, not unelected bureaucrats. I am hopeful that the discussions that have been occurring between my colleague, Senator BUMPERS, and the mining industry will lead to an agreement on mining law. In the interim, however, I think it is im-

portant that we allow the National Academy of Sciences to assess the need for the Interior Department's proposed regulations, and for that reason I urge my colleagues to defeat the Bumpers amendment.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Alaska controls 30 minutes 20 seconds.

Mr. MURKOWSKI. I thank the Chair. And remaining on the other side is?

The PRESIDING OFFICER. Thirty-eight minutes 35 seconds.

Mr. MURKOWSKI. I thank the Chair. I will accommodate the Senator from Arkansas if he desires to speak at this time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. My good friend and colleague from Alaska, Senator MURKOWSKI, mentioned the fact that I come from a State where poultry is a big industry, which, indeed, it is. And they have been taking a lot of hits lately. Tyson Foods, which is by far the biggest poultry company in the United States, has been fined by the State of Maryland, been made to change their operations. The Secretary of Agriculture announced last week that we need a totally new set of regulations dealing with animal waste, including poultry. They are subject to all kinds of regulations. I have been here for 24 years now, and I defy any Senator to tell me one time I ever objected to a regulation that dealt with the environment where the poultry industry was involved. I wonder if the Senator from Alaska would tell us how he would feel if I came in here knowing that the poultry industry was creating an environmental disaster and said, well, I want 27 more months to study it—if last year I came here with a proposal saying you can't do anything to the poultry industry until every Governor in the country or every Governor whose State has poultry signs off on it, and, once you get that in place, say, well, all the Governors have to be consulted, and you get that in place, and then I come back and say, no, we need 27 more months to study it.

I don't know how people would react to that. I expect rather severely. But I will tell you one of the differences. Very few States have hard rock mining on Federal lands.

Incidentally, I might just at this point say, Mr. President, there was an editorial a couple weeks ago in the New York Times entitled "Time for Mining Law Reform." I ask unanimous consent to have that printed in the RECORD.

There being no objection, the editorial is ordered to be printed in the RECORD, as follows:

#### TIME FOR MINING LAW REFORM

With very little fanfare, the White House recently released a three-paragraph state-

ment announcing the formal transfer of the New World Mine site to the United States Forest Service. Thus ended, officially and happily, a four-year struggle to prevent a Canadian mining company and its American subsidiary from building an environmentally treacherous gold mine near the border of Yellowstone National Park. But the forces that defeated the mine, including the Clinton Administration, have one more task ahead of them. That is to overhaul the 1872 Mining Law, the antiquated Federal statute that made it so easy for the company to acquire the mine site in the first place.

Signed by Ulysses S. Grant to encourage Western development, the law gives mining companies virtually automatic access to Federal land and allows them to take title to that land for a few dollars an acre—a process known as patenting. The law does not provide for "suitability" review to determine whether the mining operation could cause unacceptable environmental damage. It also allows companies that mine hard-rock minerals like gold and platinum to escape any royalties similar to those paid by companies that extract oil and coal from Federal lands. Finally, the law does not require companies to clean up abandoned sites. According to the Mineral Policy Center, an environmental group, a century of unregulated mining has left behind 557,000 abandoned mines, 50 billion tons of waste and 10,000 miles of dead streams.

Powerful Western senators have always managed to block reform. Nevertheless, Senator Dale Bumpers, long a champion of reform, plans to use his final months in office before he retires to push for something meaningful on the books. The Arkansas Democrat has offered three related bills that would end the patenting system, impose a royalty on the minerals the mining companies extract and use that money to begin cleaning up old mine sites.

The proposed environmental safeguards could be stronger. There is, for example, no suitability provision that would allow the Government to insulate certain lands from any mining at all. This is a serious flaw, but years of legislative futility have persuaded Mr. Bumpers that to insist on such safeguards would doom even the modest reforms he has proposed. He also believes that ending the patenting system—which effectively allows mining companies to privatize public lands—would make a big difference because it would expose the companies to Federal environmental regulations they can now safely ignore.

Mr. Bumpers concedes that those regulations need to be made stronger, a task that Bruce Babbitt, the Secretary of the Interior, has pledged to undertake. The ever-resourceful Western Republicans have also anticipated that threat, saddling this year's Interior appropriations bill with a rider blocking Mr. Babbitt from issuing stronger rules for at least two years—at which point they hope to have a less conservation-minded secretary running Interior. That is one more reason for President Clinton to veto that bill, which is loaded with other destructive riders. Meanwhile, the Senate should approve the Bumpers proposal, which, despite its flaws, represents real progress. Its passage would give the victory at Yellowstone lasting resonance.

Mr. BUMPERS. This says exactly what I have been saying, and that is, the President ought to veto the Interior Appropriations bill if my amendment is defeated. And I personally think he will.

With all these disasters which I have addressed, all we have had is one delay

after another. In 1993 they said, "Well, we are working on a mining bill," and in 1994 the same people who said we are working on a mining bill and we should not deal with these regulations did everything they could to stall until 2 weeks before we were to go home to make sure there was no mining bill.

And then last year they said, "We want all the Governors to have a say in this. Don't put a regulation into effect that prohibits the leakage of cyanide from a gold mining site unless all the Governors have signed off on it." They backed off that and they said, "Well, they have to be consulted." We said, "Fine, they ought to be consulted." So they were consulted. And the president of the Western Governors' Association told the Senate Energy Committee that "We have been consulted." So what do they do then? They come back and say, "Well, now we want the National Academy of Sciences to study the regulations"—anything under God's sun to keep from dealing with an unmitigated disaster.

Why are the people of America indifferent? They don't even know about it. There is no hard rock mining in my State. I am not running for reelection, but if I were running for reelection I wouldn't get any votes in my State out of this issue. As Gilda Radner used to say—"if its not one thing, its another." And the Senator from Alaska alluded to the fact that I had, indeed, been working with the National Mining Association trying to craft something to reform the 1872 law that Ulysses Grant passed and has been such an unmitigated disaster for this Nation. Think about a law still on the books that Ulysses Grant signed to encourage people to go West. Is that a legitimate reason for allowing this 126-year-old bill to stay on the books—encourage people to go West? That is what we are dealing with.

And the Senator from Alaska said he and Senator CRAIG had a bill, and I asked them not to bring it up. That is true. I did that because I thought we were going to make a deal. The Chairman of the National Mining Association—who is a very fine, honorable man, in my opinion, a man of immense integrity—and I worked extremely well together. We were honest with each other, and our staffs developed a draft proposal. Unfortunately, that was before we ran it by the Western Senators. Two Western Senators said we can't do this. And the Senator from Alaska said the reason they didn't bring up the bill he and Senator CRAIG crafted was because he thought we had a deal. I thought I had a deal, too.

The bill they wanted to bring up, the bill they crafted and they said it was too late to bring up, let me tell you what it would do. It says, first, that environmental regulations promulgated by the Secretary of Interior cannot be stronger than the State where the mine is located. Think of that. There is no point in even having a Federal regulation. Each State would be a king

with regard to mining on Federal land. Every State would determine what the environmental regulations would be, because the Federal regulations promulgated by the Secretary of Interior could be no stronger than the State regulations of a particular State where a mine was located.

How foolish can you get? And, when it came to the royalty, they would grandfather every mining company holding a valid claim. There are 300,000 claims in this country. If you grandfather everybody who has a valid claim, you would not collect enough royalties in the next 30 years to buy a ham sandwich. There is nobody to pay it. After all, people have been buying Federal lands for \$2.50 an acre for the last 130 years. You cannot charge them a royalty because they own the land. We sold it to them for the princely sum of \$2.50. So when you take all of them and everybody else who turns up with a valid claim, there is nobody left to pay a royalty.

Mr. President, let me make a philosophical point. I am an unabashed, card-carrying, hardened environmentalist. In 1970, when I ran for Governor in my State the first time, the environment was just then becoming an issue in this Nation, albeit a fairly low key one. But it made a lot of sense to me, based on what I had read, and so I began to talk about the environment. I began to talk about Arkansas' magnificent rivers and streams and how they were being polluted. I began to think.

In 1966, I went fishing on the Buffalo River, the most beautiful river in America. It was so magnificent. I had no idea that my own State had such a treasure. Two nights we camped out on a sandbar. We ate and we drank and we created a lot of garbage, and the tour guide took all the garbage that we created and put it in a plastic bag, waded out as far as he could into the river, and tossed it. And nobody thought a thing in the world about it. Finally, after a little bit of that, somebody began to raise the question about the Buffalo River being polluted.

To shorten the story, we made it a national scenic river. It is a pristine, clean river. People come from all over the world just to camp out on the banks of the Buffalo or to fish the Buffalo. It was not even popular with the local people when we made the Buffalo River a national treasure, and today there is not anybody up there who would go back to the old ways. So, yes, you are being addressed by a card-carrying environmentalist.

Do you know the other reason? I have three children and six grandchildren. We talk about how much we love them, how they are our most precious possession, how our whole life is calculated to make life more pleasant for them, and then we come in here to vote for trash like this.

We only have one planet. God, in his infinite wisdom and in the heavens, gave us one planet to sustain us for-

ever. Not next week, not next year—forever. We say, "Well, God certainly didn't mean to stop putting cyanide poison into our underground aquifers and our streams and rivers, because there are jobs involved in this. God didn't intend that." No—that is how specious the arguments are that I have been listening to this morning. So you only get one chance to preserve the planet.

You can buy these arguments about, well, what is wrong with the National Academy of Sciences studying the rules for mining? Nothing, except they have already studied it. Everybody studied it. There are GAO reports galore. If the National Academy of Sciences is so important to us, why was it not mentioned last year, and the year before and the year before that? It is a nicely crafted idea, because at the fundraisers, if anybody raises the question, you can say, "What is the problem with the National Academy of Sciences—it is a very prestigious organization—studying the rules on how we are going to mine?"

It would not take 27 months. Mr. President, 27 months is carefully calculated to take us past the Presidential election of the year 2000.

Mr. President, I ask unanimous consent the Senator from Wisconsin, Mr. FEINGOLD, and the Senator from Louisiana, Ms. LANDRIEU, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, Bill Clinton, my friend from my home State of Arkansas, has been taking a lot of trashing lately, a lot of it richly deserved. I am not here to defend the President. But I will tell you one thing. You can say a lot of things about him but you cannot say he is not an environmental President. I will tell you what I think he will do. I think he will follow the advice of DALE BUMPERS and the New York Times and veto this bill if this amendment is defeated. I can tell you I don't care how weak he is, I don't care how disturbed he is about all of this, I don't care how disturbed the American people are, I promise you there is one thing about him that he will not yield on and that is the environment; and for the very same reason nobody in the U.S. Senate ought to yield on it.

I know it is painful. I know companies are put upon because of the environment. But, when you think about what has happened to the environment over the past 300 years of history in this country, it is time we implement strong measures.

Did you know that the rules right now say that you cannot even regulate a mine of 5 acres or less, you can go out and create all the damage you want to on 5 acres? That is a pretty good spread for some mines. In the State of Nevada, there are 2,400 mines of 5 acres or less. Here is a letter from the BLM office in Reno, NV, to an assemblywoman in Nevada, about these 5-acre mine sites. The BLM says:



Since enactment of BLM's surface management regulations in 1981 [that's the one we are still trying to live with, put in effect in 1981, since the regulations in 1981] the BLM in Nevada has processed nearly 10,000 notices. Currently, there are approximately 2,400 active notice-level operations in Nevada. There have been many environmental and operational problems associated with the smaller operations in Nevada.

We aren't talking about 1872. We are talking about May 1, 1997. Let me repeat that.

There have been many environmental and operational problems associated with the smaller operations in Nevada.

In summary, there are 90 exploration or mining sites of five acres or less in Nevada where a reclamation bond would have either probably prevented a new modern-day problem from developing or would have been used to reclaim an environmental problem.

You can defend that if you want to if you are from Nevada. That is your privilege. Do you know something else? The Federal regs of 1981 are just like the Nevada law. We exempt all mines of 5 acres or less. Thousands and thousands of them are exempt under Federal regulations. And you think that doesn't create environmental havoc?

Mr. President, I am not terribly optimistic about my chances of succeeding today. Last year, happily, we were able to work out an arrangement where we said we will consult with the Western Governors. Nobody mentioned the National Academy of Sciences last year. I have been in the Senate 24 years and ever since I have been on this issue, nobody has ever mentioned the National Academy of Sciences. But somebody cleverly came up with the idea and said, "At your fundraisers, you can always defend yourself; you can say, 'The National Academy of Sciences did a study on that.'" I sure hope they come up with a good set of regulations. I yield the floor, Mr. President.

Mr. MURKOWSKI. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Alaska has 30 minutes remaining, and the Senator from Arkansas has 19 minutes 30 seconds remaining.

Mr. MURKOWSKI. Mr. President, I yield such time as my friend and colleague from the State of Idaho might need, reserving at least 5 minutes for myself.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Alaska, the chairman of the Energy and Natural Resources Committee, first of all, for the leadership role he has taken over the last good number of years to try to bring reform to the 1872 mining laws.

For some reason, the Senator from Arkansas would like to portray that mining is a rogue industry in our Nation that goes unregulated, outside environmental regulations, and he cited today 5-acre mine sites. They are not outside the environment, they are simply outside a plan of operation. My

guess is, one could find piles of chicken manure in that State that violate environmental laws that are less than 5 acres that are not controlled. Does that sound silly and facetious on my part? Yes, it does, and I apologize to the Senator from Arkansas for saying it, but I want him to understand that when he makes a statement like "5 acres, rogue, out of control," it is not true. It is not true in my State that has very tight environmental laws, and it is not true in other mining States.

What the Senator from Arkansas would like to have you believe in his compassionate statements about mining is that somehow these impact his State. His State is not a mining State, per se. Mine is. The Senator from Alaska has a mining State. The Senators from Nevada have a mining State. Those States have had mining for over 100 years, and some of that mining they are not proud of, or I should say, were not proud of.

In the sixties and the seventies and the eighties and the nineties, those States began to take control of their own environmental destiny, in part urged by the Senator from Arkansas, no question about it; in part, a product of the National Environmental Policy Act; in part a product of the Clean Air Act; in part a product of the Clean Water Act. All of those came together to shape plans of operation and new mining strategies for this country. I will tell you what it did in my State. It cleaned up a lot of messes, messes by the definition of today's environmental standards and ethics, not definitions by mining and environmental standards of 70 or 80 years ago.

Why is the Senator standing up here this morning painting the world as if it were black, most importantly, painting the world of mining as if it were a disaster? The Senator from Arkansas knows it just "ain't" so, but this is one of his causes celebres which you and I have heard on this floor—and I serve with him on the committee—for a long, long while.

What is the essence of this administration's attempt to rewrite the 3809 regulations? My guess is that Secretary Babbitt and Solicitor Leshy are creating a solution for a problem that doesn't exist, or more importantly, creating a solution that plays to their political base and hoping there is a problem out there to which they can attach it. I have a feeling that down underneath all of this, this is just about the whole of the problem that we are attempting to debate on the floor today.

There is no question that this Senator, the Senator from Alaska and a good many other Senators want responsible mining law and we think, in large part, we have it, because the old 1872 mining law in one court case after another, after another, after another, after another, after another, piled up over 100-plus years, has transformed the world of mining in this country into not only the significant industry it is, but the environmental-sensitive industry that it is today.

Yet, the Senator from Arkansas and others love to drag out 20-year-old pictures and 20-year-old stories as if they had just happened yesterday and say, "Oh, look at these pictures and read this story; isn't it terrible what the world of mining is doing to the clear and pristine lakes and rivers of our country?"

Let me tell you the mining story, the pictures and the story today about those clear and pristine rivers. They were not once clear and pristine. Mining tailings were dumped into them, and the rivers in my State, in one instance, ran murky the year round. But today the Coeur d'Alene River, flowing down through the major mining district of my State, runs clean. Fish propagate in it. Kids swim in it.

That wasn't true 20 years ago. It was a combination of Federal and State effort that produced that. But most importantly, it was the ethics of the citizens and the government of the State of Idaho that said as a mining State, we have to do it right, and that is what Western Governors are saying today to this administration and to the Senator from Arkansas and to a lot of others who like to use this as their political base.

Look at the politics of it, sure, but look at the reality of what we are doing. All of these States have very tight laws and regulations today. You heard it from the Senators from Nevada, one of the top mining States in the Nation today, employing tens of thousands of people and bringing hundreds of millions of dollars into our economy. They are doing it right. They are doing it under all of those environmental laws that were passed on this floor in the sixties and the seventies and the eighties, and they are not backing away from them or trying to shrink from those laws. They are trying to improve them and better them.

So why is the Secretary of Interior and his Solicitor and the Senator from Arkansas looking for a solution to fit a problem that doesn't exist? I am not sure. I already suggested it does identify with their political base, but I am not so sure it identifies with the real world, especially if a former Governor, who talks about how his State has done so well, believes that States ought to have powers and rights in these areas.

He and I have worked very closely together over the last several years to reform the 1872 mining law and to attempt to empower those States in cooperation with the Federal Government to assure that that relationship and those kind of dynamics continue. On that I don't disagree with the Senator from Arkansas, but I do disagree with the Federal Government and its heavy hand ignoring the States' Governors until we shove them into beginning dialog with them on the reform of these rules.

Most of the Western Governors, however, who have problems, who are working well with respect to mining operations within their boundaries,

want the BLM to do a couple of things with any modification in regulation; and yet most Governors say they have not been worked with well, they have not been listened to, and if you do not do major things, that it will not happen.

Again, the heavy arm of the Federal Government will come down against States. Once again, we violate or at least we ignore the Constitution of our country, all in the name of a current political cause that does not seem to exist much more today because we addressed it a long time ago. That is the essence of the amendment to the Interior appropriations bill by the Senator from Arkansas.

What did we do this year? Because of the difference between the Department of Interior and the Governors—the Western States Governors primarily—we have said, “Let’s get the National Academy of Sciences, an impartial group, to step in between and examine this solution looking for a problem.”

They are impartial. Both sides, I think, would respect their integrity. And let us see how much of a problem there is out there. Let us scope the magnitude of it before we bring down the heavy hand of Government and put thousands of people out of work or risk putting thousands of people out of work and destroying some significant economies in many of our Western States.

That is really the essence of what we do here today. It isn’t that the Energy and Natural Resources Committee has not been diligent. The Senator from Arkansas has been diligent. We just cannot agree. We have fundamental disagreements. I want mining. I want it alive and well and creating jobs in my State—minerals and metals for the economy. And I am not so sure that that is what he wants. Or at least he wants it in a way that largely causes the investors in my State to go offshore to make those investments—under the same environmental standards that they would make in this country except they avoid the burdensome multiyear regulatory process of a Government that really does not care about the economies of investment and jobs because the cause they lift themselves to is a cause higher.

That is the issue of this amendment. When you have a dispute between two concerned parties—and we do here; the Senator from Arkansas and I and others just fundamentally disagree—what is wrong with bringing an impartial body in between us to examine the problem that by my estimation does not exist and by the estimation of the Senator from Arkansas does exist?

What is wrong with bringing an impartial body to the fore for that purpose? That is exactly what the Interior Appropriations Subcommittee thought ought to be done, in consultation with the chairman of the full authorizing committee, the Senator from Alaska. That is what we are doing. And that is why the Senator from Arkansas is try-

ing to stop it, because it might bring about a solution that works. And it would deny this administration the right to slash and burn and destroy a mining industry that they did not like out there on the public lands to begin with.

Secretary Babbitt has not been bashful. Every time he has to comply with the law, he gets on a soap box and degrades it and says that he is being forced to do certain things. Well, it is terrible when you are forced to abide by the law. Why should you shun it? But then again, I, as chairman of a subcommittee, the Senator of a full committee, and the Senator from Arkansas have invited Secretary Babbitt to the table for the last 6 years to work out these problems. And their answer is, “No. It’s to our advantage to have the politics of it, not the solution to it.”

That is the essence of the debate here on the floor. It really is, in my opinion, that clear and that simple. You cannot talk about modern mining today and use 20-year-old examples, because most of those were created 20 years before they became a problem. Yet, that is the basis of the argument. That is the strength of any argument that they attempt to produce.

So I hope that my colleagues will stand with us today in opposing the Bumpers amendment—that we should table that amendment—because while it can be partisan at times, this is not a partisan issue. The Senators from Nevada are Democrats, and I am a Republican, and we are from neighboring States.

Mining has been for 100 years a major part of our economy and yet today remains an important part of our economy. My State is touted as being one of the most beautiful, mountainous, high-desert States in the Nation, with clear flowing streams, pristine mountain meadows. And 100 years of a mining legacy? Yes. It seems like Idahoans did it right. Then while they were doing it right, they learned to do it better. And there is no question that the environmental laws we passed here in the 1960s and the 1970s and the 1980s helped them do it better.

But just a few years ago our reclamation laws, our mining laws as a State, were the example for the rest of the Western States to follow, and many of them did. Many of my miners have received national environmental awards for their productions, for their operations, for their facilities, and they are very, very proud of it.

So what is the advantage of standing here on the floor today and pounding the podium and talking about the evil mining industry and the environmental problems it creates? Well, if you are an echo of the past, maybe there is value there. Or if you are the politics of yesterday, maybe there is value there. But if you really want to work with our Western Governors, and solve a problem, and bring two divided sides together, then you do exactly what this bill does—you employ a neutral party,

the National Academy of Sciences, to analyze at least the proposed problem that Messrs. Leshy and Babbitt suggest exists, and examine the solution that they have out there, searching for and coming up with a resolution.

I am quite confident that if the National Academy of Sciences proposes, that we will take a very, very serious look at disposing with that. That is the issue here. Let us proceed in that manner. Let us not divide the Federal Government and State governments any more. Let us build a working partnership, as we have had in the past, that will project us, I think, into a productive future so that mining can remain a strong part of our economy, as it should, and, in my opinion, as it must if we are going to continue to have a free flow, an important flow, of minerals and metals to the critical economies of this country.

I yield back the remainder of my time.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Might I ask how much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes 20 seconds remaining; the Senator from Arkansas controls 19 minutes 27 seconds.

Mr. MURKOWSKI. I ask the Senator from Arkansas if he would care to go next since we spoke last on the issue.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, first of all, I want to make one point that perhaps has not been made, and that is that this amendment only applies on Federal lands. Bear in mind, all mining does not occur on Federal lands. There are all kinds of mines in this country on private lands. There are some on State lands.

I might also say that we have given away 3.2 million acres of land in the past 126 years. Well, we did not give it away; we charged \$2.50 an acre for it. Lands the size of the State of Connecticut we have given to the mining industry in the past 126 years to mine on. Do you know what else? They own it. We gave them a deed for \$2.50 an acre, and they own it. And these regulations do not apply to people who own their own land. The States regulate that.

One other point I want to make is that I believe the Senator from Idaho indicated something about my political position, my political base. No. 1, there is no political base on mining in my State. There is a political base for being on the side of keeping the environment as clean as possible, but that is not unique to my State. I assume that there are some people even in Idaho and Alaska who want to keep the environment as clean as possible.

Let me say, as the Senators tick off all the laws that the mining industry has to comply with—clean air, clean water, reclamation—tell us which one of those you want to repeal.

In the 1970's when a number of environmental laws were passed, go back and look at the speeches that were given, and given again today, about what a terrible disaster this would be if we passed this bill and made people comply with these nonsensical, crazy regulations. It is just another case where the old Federal Government is trying to tell us how to run our lives.

Do you know the reason the Coeur d'Alene River is now a clean, pristine river? Because of the Clean Water Act. I applaud the people of Idaho who I assume didn't want that river to be polluted any further. I can tell you, it may or may not have happened if it hadn't been for the Federal Government's intervention. I don't know where that beautiful river in my State, the Buffalo, would be right now if we hadn't made it a wild and scenic river and stopped the disastrous pollution of the river.

In the 1970's 65 percent of the streams, rivers and lakes in this country were neither fishable nor swimmable. And because of the terrible old Federal Government and all their regulations imposing on the business community of this country, today it is reversed—65 percent of the streams, lakes, and rivers of this country are fishable and swimmable. How I wish I could live long enough to see that figure at 100 percent.

It is expensive. It is expensive to undo a mess. As I said on the Senate floor last week in a different context but it bears repeating here, as the English philosopher said, there is nothing more utterly impossible than undoing what has already been done. Do you think Bill Clinton wouldn't like to undo some of his past? Do you think people in my State wouldn't like to undo some of the surface mining, the strip mining, that we allowed to take place? They just dug out the earth, piled it up in big layers, took the coal, and left it.

It is not even half over. When you consider the fact that mines of 5 acres and less aren't even regulated, when you think of all the 3.2 million acres of lands we have given to the mining industry, these lands are not included.

So what do we have? The Senator from Idaho said Senator BUMPERS is up there talking about what happened years ago. In 1992, in Colorado, Summitville's actions cost the taxpayers \$30,000 a day; 6 years ago that disaster occurred. What did they do? They polluted 17 miles of a river. It is now a Superfund site.

Zortman-Landusky, 1998, in Montana—going broke. Taxpayers will get to pick up the tab while we do another study by the National Academy of Sciences. Then you can go home and say, "Yes, I'm for the environment." I think the National Academy of Sciences ought to study these things as the disasters pile up. In 1998, in South Dakota, they are not quite broke yet, they are in financial difficulties. They had a \$6 million bond, and the cleanup

figure is now estimated at \$10 million. Who picks up the difference? You know who picks up the difference.

There are 557,000 hardrock mine sites that are abandoned. Today, 59 of them are on the Superfund list. The cost to the poor taxpayers: \$34 to \$71 billion, because the U.S. Congress engaged in sophistry, specious arguments, as the pollution went on, as the unreclaimed mines were left for the taxpayers to pick up the tab.

Think about 2,000 sites in our national parks that have to be reclaimed. Twelve thousand miles of rivers are polluted, and they say we need another 27 months to study it.

I don't know much of anything else I can say about this. I will have a lot more to say tomorrow when I offer yet another amendment on mining. Then the Senator from Alaska and the Senator from Idaho can have a big party and say, "That mean old Senator from Arkansas, we have heard the last of him," because you will have. I have been on this subject now for 10 years, with just a few marginal successes. As I pick up the paper in a few years and watch how things have gone, I will be a detached taxpayer, still with strong feelings about it. All I can say is, I did my best to try to save this planet for my children, my grandchildren, and yours.

Let me repeat one more time, when you consider FLPMA, which we passed in 1978, when you consider the National Forest Management Act, when you consider the Clean Air Act and the Clean Water Act, tell us, which ones would you strike? Which ones would you repeal?

It reminds me, as a southerner, what a tough time we had coming to grips with civil rights. Monday morning I will speak at an assembly at Central High School in Little Rock where, 31 years ago, the National Guard was called to keep black children from going to school there. The Arkansas Gazette, at that time the oldest newspaper west of the Mississippi, took a strong stand against Orval Faubus, who was Governor and who called out the National Guard to keep those nine children from going to school at Little Rock Central High School.

They lost circulation down to about 82,000. Orval Faubus was elected six times—the first Governor ever elected to a fourth term. Only one had ever been elected to a third term. And who today would take that side of that question? There are a few, of course. Who today would want to go back to charging people to vote?—which they did when I was a young man. You had to go down to the courthouse and pay a dollar for a poll tax. Who would go back to that?

If I were to start talking about the literally hundreds of things that we have done in this country that were terribly unpopular—I can remember when every doctor in America said, "If you pass that Medicare bill, you will be sorry; it will be the end of health care

in this country." Can you find me somebody today who doesn't like Medicare, including the medical profession? No. In the 1970's—go back and look at the speeches made when we passed a variety of environmental statutes. I never read as many doomsday speeches in my life. Who would go back to the time when we didn't have NEPA? Who would want to go back to the time where we emptied our garbage out in the Buffalo River in plastic bags?

Sometimes it is a long time coming, and the disastrous part of it is that so much of it is irreversible; you cannot put it back the way God gave it to us. That might be getting too heavy on an issue like this. But I am telling you, when you look at the statistics of how many abandoned mine sites there are right now, when you look at the fact that we know what this is—this is nothing more than a dilatory tactic. There is not one Senator who doesn't know precisely what this is about. It is a simple delaying tactic.

Mr. President, I yield the floor and yield the remainder of my time—Mr. President, I will not yield back the remainder of my time. I think Senator LANDRIEU may wish to speak, so I will reserve the remainder of my time for her.

Mr. MURKOWSKI. Mr. President, I ask the Chair to indicate how much time remains on both sides.

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes. The Senator from Arkansas has 5 minutes 30 seconds.

Mr. MURKOWSKI. I thank the Chair.

Mr. HATCH. Mr. President, I rise this morning to express strong opposition to the Bumpers amendment, and I urge my colleagues to oppose it as well. This amendment is a step backwards, Mr. President. It is a step back toward more centralized government; it is a step back toward more heavily handed regulations; and it is a step back toward making environmental policy with emotion and politics instead of science and common sense.

Mr. President, this argument really comes down to whether or not we want environmental regulations to be determined on the state level by those who have the greatest stake in a healthy environment and a strong economy, or do we want to keep all the power inside the Washington beltway and in the hands of federal politicians and bureaucrats.

This amendment would strike section 117 of the fiscal year 1999 Interior appropriations. What is so disturbing about this section that it must be struck, Mr. President? Section 117 is simply an attempt to replace the emotionally and politically charged controversy surrounding the revised 3809 regulations with good science. Section 117 would require that the National Academy of Sciences—hardly an organization in the pocket of the mining industry—perform a study of the adequacy of federal and state regulations

governing hardrock mining on our public lands before the Secretary of Interior moves forward with the new regulations. I find it baffling, Mr. President, that a member of Congress would be opposed to introducing an impartial and nonpartisan element to this heated debate, such as a study by the National Academy of Sciences.

Mr. President, this is not merely a philosophical debate. This debate is about jobs in rural America. We have learned by unhappy experience that regulations spewed forth from Washington, D.C., with no regard for those who are most affected by the regulations, often lead to a loss of competitiveness and jobs in rural areas.

I wish all of my colleagues could visit the many rural areas of my state of Utah. They would find that opportunity has been whittled away from rural Americans who live among public lands. And why have these citizens lost their ability to grow and prosper, Mr. President? Has it been because of a lack of effort or creativity? Of course not—rural areas in Utah are struggling because government bureaucrats have systematically closed off opportunities to graze on public lands, to harvest timber on public lands, and to mine on public lands. I challenge anyone to tell me that this trend has not led to a major loss of rural jobs, Mr. President.

Mr. President, the rural people of my state know that the source of their problems has been an onslaught of centralized government regulation. I would like to read a letter from a young constituent of mine, T.J. Seely. He sums up, better than I could, what the crux of this debate is really about.

Mr. President, I ask unanimous consent that this letter be entered into the RECORD along with my remarks.

Mr. President, T.J. asks me in his letter, "What are you doing about jobs in rural Utah?" Well, Mr. President, an important part of my answer to T.J. will be that I voted against this amendment today, and that I urged my colleagues to do the same.

There being no objections, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 19, 1998.

DEAR SENATOR HATCH: My name is T.J. Seely. I'm from Ferron, Utah. I am thirteen years old and I'm concerned that there won't be any jobs when I'm out of high school.

My dad is forty years old. He works for one of Pacific Corps. mines and I'm worried that he won't have a job.

In Utah I think that we have more of our share of Federal lands.

What are you doing about jobs in rural Utah, and what can I do about securing jobs in Utah?

Sincerely,

T.J. SEELY.

#### PROPOSED BLM 3809 REGULATIONS

Mr. BENNETT. Mr. President, I have listened with interest to the discussion that has taken place today regarding the Bumpers amendment and I would like to express my views on the BLM's proposed 3809 Regulations. I am concerned that my colleagues are facing

another situation, like others in the past, in which policymakers in this Administration lacking support from Congress, nevertheless develop policy based on a predetermined outcome. Once that policy is introduced, we are then subjected to the usual vocalizing about the importance of public input and the necessity of hearing views of all interested parties.

BLM's justification for new regulations is spotty—advances in mining technologies and current regulations which have not been updated for 15 years. Yet when we had this discussion last year, we agreed that since the regulatory authority of western states would be called into question, it was important that we allow for significant input from those impacted states. I am dismayed that the BLM draft regulations ignored most of the input received last year. The result has been a proposal that was so top-heavy with prescriptive regulation it would never pass muster if it were to move through the normal legislative process.

We find ourselves in a situation where the Western Governors, which have individual state programs that are working very well with respect to mining in those states, wish to have greater input into the draft regulations. These Governors, regardless of party affiliation, have stated very clearly that the problems with the current law described by the Secretary simply do not exist. They would prefer to have several legal issues resolved prior to any modification of the current 3809 regulations. I do not see anything wrong with seeking guidance from an outside source as to how the current regulatory framework is deficient. I believe the language we have in this bill addresses those concerns by bringing in a non-biased entity to determine if the current regulatory framework is inadequate.

I sometimes wish we could be more candid with each other. I am amazed at what happens when we can sit down around the table and have an open discussion. We have been successful in the past, as my friend Senator BUMPERS well knows. Were it not for two or three candid discussions, we would have never reached agreement on National Park concessions reform. But this is a case where BLM is not willing to admit what it is really trying to do. The Secretary should admit that he is trying to accomplish mining law reform through the back door because the Administration lacks the votes in Congress. If he would simply say that, I would say that I disagree with his position. But because of the lack of candor around here, we go through various machinations and we find ourselves in this situation where we now have to bring in the National Academy of Sciences to provide a non-biased review so we can get the information to Congress. I think this issue has moved to the point where we are in need of unbiased, outside counsel. If there is a problem, let's fix it, if not, let's leave well

enough alone. But the first step is to identify if a problem really does exist.

Mr. MURKOWSKI. Mr. President, following the current debate, let me point out a couple of things that I think the Senator from Arkansas may have overlooked with regard to his general statement that we have 557,000 sites in the abandoned mine category.

I think it is important to recognize what we have done. We have a system. The system is working. Fewer than 3 percent of those 557,000 are considered to be of a significant environmental concern. Surface water contamination, ground water contamination, and Superfund make up less than 3 percent of these sites. The others—it is interesting to note—34 percent, or 194,000, have been reclaimed and are considered benign; 231,000, or 41 percent, have a surface disturbance. Obviously, if you are going to mine an area in an open pit, you are going to have a surface disturbance. But that can be taken care of in the reclamation process. The trees can grow back.

I ask anybody who has visited the interior of Alaska to recognize the techniques used with the gold dredges where they basically built this dredge in a pond and it dug ahead of itself and deposited the tailings, the pond was not any bigger than the dredge, it simply moved, and yes, the tailings were evident at the time, but now the trees have grown back into the tailings piles. That is what is happening in these areas where appropriate reclamation takes place, and the technology today is much more advanced than previously. So there is significant advancement in the process.

The system of reclamation is working, and the States take pride in their obligation to address reclamation associated with mining activity. You can't create wealth, you can't create jobs, and you can't create prosperity without some kind of a footprint. Mining is no exception. But with the technology we have, we are addressing it and doing a better job.

The problem with the proposal of my friend from Arkansas is that he simply wants to have the Department of the Interior come in and dictate terms and conditions—a nameless, faceless bureaucracy, accountable not to the people within the States, not to the people who work in the mining industry, not to the people who have jobs, families, mortgages, but to an indifferent Department of the Interior coming down with regulations that would basically strangle the mining industry as we know it today and force it overseas.

We have had a discussion about the poultry industry. I am sorry that my friend from Arkansas stepped out briefly, but I have done a little investigation in the last few minutes relative to the poultry industry in Arkansas, which I know very little about. Clearly, the Senator from Arkansas is on record opposing any State regulation of mining that is evident today. But he doesn't oppose State regulation of his

State's biggest industry, and that is poultry. Small poultry farmers are not subject to Federal law, clean water regulation, even when large corporations actually own the chickens. It is left up to State law, even though it is a major water quality issue in those States with high populations of poultry. In Virginia alone, over 1,300 poultry operations produce 4.4 billion pounds of manure a year. A so-called small poultry operation can produce 540 tons of litter per year. I haven't heard the Senator from Arkansas arguing in favor of Federal regulation, but perhaps we are getting ahead of ourselves and we don't need to spread the issue around any more than we have, relatively speaking.

Let me just highlight a few more points that I think are appropriate. Let's look at the gold industry in the United States today. The layoffs total approximately 3,500 workers—not because the gold isn't there, but the world price of gold has declined. As a consequence, these mines, such as the HomeStake Mine in Lead, SD, a small community of fewer than 1,000 people, where there are over 466 people that are out of work—that issue is not as a consequence of the issue before us today, but it is a consequence of the mining industry's ability to operate internationally based on cost, based on the value of the gold in the ground, and a number of other considerations.

The point is, when you go into the mining industry, you go in for the long haul. You are going to have good years and bad years. But I think it is appropriate that we take a look at the industry as it exists in the Western States. There are 5,000 people employed in my State of Alaska. In California, there are 115,000 people with jobs directly or indirectly affected by the mining industry; Colorado has 19,000; Idaho has 7,000; Montana, 9,000; Nevada has 11,000; South Dakota, 8,000; the State of Washington has 26,000.

So I remind the Senators from those States that are directly affected, with a significant payroll, a number of jobs are dependent directly or indirectly on the mining industry, and it is very important that we have a mining industry that has regulations that are responsive to the legitimate environmental demands, but at the same time recognize that this industry fluctuates with market price, world prices, unlike many other items that we might not have a fair comparison with.

Finally, let me in the remaining moments again refer to the effort that has been made that is pending before the U.S. Senate. It is ready for markup. That is the mining bill that Senator CRAIG and I have offered. It was a solid foundation upon which to build mining reform. We made an accommodation to the Senator from Arkansas not to mark it up in order for him to initiate an effort to reach a compromise with the mining industry to resolve long standing issues. Evidently, this has not yet happened, although I still have hopes.

Let me remind my colleagues that the mining bill before us would have pleased, I think, reasonable voices on both sides of the issue. It seeks reform, which brings a fair return to the Treasury. It protects the environment and preserves our ability to produce strategic minerals in an international marketplace. I think the bill, when it eventually reaches the floor of this body, will receive support and pass. The legislation protects the small miners, it maintains traditional location and discovery practices, and it is reform. It is an effort to do the job right. Bad decisions are going to harm a \$5 billion U.S. industry whose products are the muscle and sinew of our Nation's industrial output.

The future of some 120,000 American miners and their families and their communities is at stake here. So is the well-being of thousands of other Americans whose income is linked to manufacturing goods and services which support this critical industry.

In summary, Mr. President, I am going to be offering a motion to table Senator BUMPERS amendment to strike at 2:15 when the Senate reconvenes.

I want my colleagues to know ahead of time what my intentions are relative to the disposition of the Bumpers amendment.

Finally, let me, for the record, indicate the position of the Western Governors' Association, which wrote in a letter:

States already have effective environmental and reclamation programs in place and operating. These programs ensure that national criteria where they exist in current law are met and allow the States site-specific flexibility for the remaining issue.

We have letters from the Governors of Arizona, New Mexico, Idaho, Wyoming and Utah—written letters in support of having the National Academy of Sciences conduct a review of the existing State and Federal regulations governing mining to determine their deficiencies.

One other point, Mr. President. I think it is noteworthy, to my colleagues who have perhaps been following some of our Nation's environmental leaders, the comment that was made in December 1997 by former Secretary of the Interior, Governor Cecil Andrus. When the 3809 regulations were promulgated back in 1980, Governor Andrus was Secretary of the Interior. So this gentleman knows of what he speaks.

In December, Governor Andrus stated:

For over 20 years, I submit, the 3809 regulations have stood the test of time. These are the regulations that we are talking about today, the ones the Secretary of the Interior proposes to change.

Further, I quote:

Those regulations revolutionized mining on the public lands. Bruce Babbitt, who should know better, is trying to fix things that are not broken and accomplish some mining reform laws through the back door.

Mr. President, that is just what this issue is about. I don't know what is

good for the goose or the chicken, but I do know what is good for the mining industry in the United States today; that is, to defeat and prevail on the motion to table the Bumpers amendment to strike.

Mr. President, I ask that the remainder of my time be indicated.

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. MURKOWSKI. I retain the remainder of my time and yield to my friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, here is what the new regulations contain:

Regulations to minimize adverse environmental impacts, if economically and technically feasible—that is a pretty big loophole; that is what these new regulations provide—reclaim the land to its prior condition; bonding, enough bond to cover reclamation costs; and, protect the air and water quality.

Let me ask my opponents on this issue, to which of those do you object? To what do you object?

Mr. President, these arguments about the poor gold miners processing gold—I have heard those same arguments year after year, and sometimes when gold was more than \$400 an ounce. If gold is cheap, that is the argument. If gold is high, then it is jobs. If neither apply, then it is that bad old Federal Government trying to regulate our lives—anything under God's Sun to keep from doing anything to make the mining companies of this country do it right.

This is the simplest amendment in the world. Everybody knows what it is. For 17 years, since 1981, we have been living with regulations for the most part which were hopelessly out of date. In the meantime, we have been allowing cyanide to go into the rivers and streams and the underground aquifers of this country, and they don't want to do anything about it. They don't want a regulation or a rule that makes people responsible for that.

I think I have said everything I can possibly say about this issue. I will simply say I may lose this afternoon, and probably will. And when 27 months have gone by, unless somebody takes it on again next year, maybe we will get James Watt back as Secretary of the Interior and we will not have to worry about things like this anymore. This is very carefully crafted to say to Bruce Babbitt that you cannot do anything—you can't do anything until the year 2001. At that time, my opponents on this divinely hope that there will be a Republican President and there will be a Secretary of the Interior who will do their bidding. That may happen. And in the meantime, unmitigated, unfathomable economic disasters will continue to occur.

If this is an issue for the Senate to do something about, all you have to do is vote yes. If you do not want to do anything about it, then vote no.

Mr. President, I yield the floor, and I yield the remainder of my time.

Mr. MURKOWSKI. Mr. President, let me thank my friend from Arkansas for his input and his consistent effort to bring this issue before this Congress, and certainly the U.S. Senate.

I must differ with him on his interpretation. It is not unmitigated disaster. I think every Member of the Western States, and those States that have mining, recognize that there are certainly ills. But there is also an obligation and a pride to correct them, and those corrections are underway. But the suggestion that the Department of the Interior should have the broad authority to come in with sweeping new regulations that would in many cases have an adverse effect on the industry's ability to be internationally competitive is the threat proposed by the Department of the Interior. As a consequence, I would again expect to offer a motion to strike the amendment, and a tabling motion.

I yield the remainder of my time. I thank my good friend for the spirited debate. We will keep him informed of the progress and the eventual resolve of this issue, if we don't get it done today.

Mr. BUMPERS. Mr. President, parliamentary inquiry. Is there 10 minutes equally divided beginning at 2:15 on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I thank the Chair.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:29 p.m. recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

#### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3591

The PRESIDING OFFICER. Under the previous order, there is now 10 minutes equally divided with respect to the Bumpers amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, both caucuses are still in session. I ask unanimous consent that the beginning of the debate, 10 minutes equally divided, begin at 2:20 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there is now 10 minutes to be equally divided with respect to the Bumpers amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the time for the start of the debate be extended to the hour of 2:25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the time for the 10-minute debate previously ordered commence as of now, and I yield 2 minutes to the Senator from Louisiana, Senator LANDRIEU.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Ms. LANDRIEU. Mr. President, I join my distinguished colleague from Arkansas to add just a moment of my thoughts to the tremendous argument he has made to strike this language from the Interior appropriations bill and to try to move us on in a path of real reform on this issue, reform that is so long overdue. Since 1971, attempt after attempt after attempt has been made, either to pass laws to reform the 1872 statute—attempts that have failed because there is not enough support—or we have tried to take some steps through regulations. Yet delay after delay after delay has taken place.

I want to submit for the RECORD, to date \$71 billion in damages have occurred at taxpayer expense from hard rock mining—\$71 billion. Mr. President, we have 557,000 abandoned hard rock mining sites in the United States alone that have to be dealt with, 300,000 acres of Federal land left unreclaimed, 2,000 sites in national parks in need of reclamation, as well as 59 Superfund mining sites on the National Priorities List and 12,000 miles of polluted rivers.

When will the taxpayers get some relief from this law that is so far outdated and has long since met its original intent? Besides the giving away of the land for pennies, the taxpayers are then held to pick up the tab for the damage that is caused. There are some reasonable solutions that do not devastate the industry but they do begin to clean up our environment.

I support the Honorable Senator from Arkansas and ask all of our colleagues to join with him in this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, parliamentary inquiry: Is time to be charged against both parties when there is nobody speaking?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me just say to what few colleagues may be listening, in 1976, the Secretary of the Interior was charged with the responsibility of making sure that people who mine on Federal lands belonging to the taxpayers of America, not cause undue degradation of the land.

In 1981, the Secretary promulgated regulations to determine how mining would take place. It was obvious after that that the gold mining companies were using cyanide—cyanide—to mine gold. We have had three unmitigated disasters since 1981. We have cyanide running in the rivers and streams and our underground water supplies of this country.

In 1991, Secretary Lujan tried to change the rules so we could take care of that, as well as other things that needed to be taken care of.

In 1993, everybody said, "No, let's wait; we're going to get a new bill." Nothing happened.

In 1997, Secretary Babbitt started to promulgate rules to try to take care of underground leaching of cyanide poisoning, as well as a whole host of other things. Senator REID got an amendment put on last year that said every Governor in the West would have to sign off on that. We finally compromised by saying the Secretary would have to consult with Governors of the West, which he did and which they certified that he did.

This year, they come in and say, "No, let's don't do it yet; let's have the National Academy of Sciences study it."

It takes 27 months, 27 more months under this amendment to get these rules promulgated, carefully orchestrated to go past the year 2000 and, hopefully, to get a Secretary of the Interior to their liking so we can continue to pollute the rivers and streams of underground aquifers of this country with cyanide poisoning.

People of this country have a right to expect something better than that, and all I am doing is striking this so that the Secretary can go ahead and issue the rules on November 17. If the Congress doesn't like them, let them change them. But for God's sake, let's keep faith with the American people and say we are going to do something about Summitville, CO, 1992. The bond was insufficient. They took bankruptcy. Zortman-Landusky, MT, 1998; Gilt Edge, SD, 1998.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I plead with my colleagues and simply say let the Secretary do the job we hired him to do and promulgate the rules we told him in 1976 he ought to promulgate.